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Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 391

[Docket No. 91-040F]

Fee Increase for Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations to increase the fees charged by FSIS to provide overtime and holiday inspection, voluntary inspection, identification, certification, or laboratory services to meat and poultry establishments. The fees primarily reflect the increased costs of providing these services due to the increase in salaries of Federal employees allocated by Congress under the Federal Employees Pay Comparability Act of 1990.

EFFECTIVE DATE: April 30, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. William L. West, Director, Budget and Finance Division, Administrative Management, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250-3700, (202) 720-3367.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This rule is issued in conformance with Executive Order 12291 and has been determined not to be a "major rule." It will not result in an annual effect on the economy of \$100 million or more; in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; in significant adverse effects on competition, employment, investment,

productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. The fee increases reflect a small increase in costs only to establishments that elect to utilize certain inspection services.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "EFFECTIVE DATE" section of this preamble. Prior to any judicial challenge to the provisions, all applicable administrative procedures must be exhausted. Under the Federal Meat and Poultry Products Inspection Acts, the administrative procedures are set forth in 7 CFR part 1.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601) because the fees provided for in this document reflect only a minimal increase in the costs currently borne by those entities which elect to utilize certain inspection services.

Background

Mandatory inspection by Federal inspectors of meat and poultry slaughtered and/or processed at official establishments is provided for under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*). Such inspection is required to ensure the safety, wholesomeness, and proper labeling of meat and poultry products; and the ordinary costs of providing it are borne by the U.S. Government. However, costs for these inspection services performed on holidays or on an overtime basis may be incurred to accommodate the business needs of particular establishments. Any or all of these costs which are not a part of the mandatory inspection service are recoverable by the Government.

FSIS also provides a range of voluntary inspection services (9 CFR

350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5); the costs of which are totally recoverable by the Government. These services, provided under Subchapter B—Voluntary Inspection and Certification Service, are provided under the Agricultural Marketing Act of 1946 as amended (7 U.S.C. 1621 *et seq.*) to assist in the orderly marketing of various animal products and byproducts not subject to the Federal Meat Inspection Act or the Poultry Products Inspection Act.

Each year the fees for certain services rendered to operators of official meat and poultry establishments, importers, or exporters by FSIS are reviewed; and a cost analysis, which is on file with the FSIS Hearing Clerk and may be requested free of charge from the FSIS Hearing Clerk, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250-3700, is performed to determine if such fees are adequate to recover the cost of providing the services. The analysis relates to fees charged in connection with overtime and holiday inspection, voluntary inspection, identification, certification, or laboratory services. The fees to be charged for these services have been determined by an analysis of data on the current cost of these services, by anticipated costs associated with changes in operations of the program, by increases in those costs due to an increase in the salaries of Federal employees allocated by Congress under the Federal Employees Pay Comparability Act of 1990, and by other increases affecting Federal employees, such as costs for benefits.

Based on the Agency's analysis of the increased costs in providing these services FSIS is increasing the fees relating to such services. These increased costs are a result of the pay raise of 4.2 percent for Federal employees effective January 1992; the increasing number of employees covered by the Federal Employees Retirement System in 1992 which is subject to the Federal Insurance Contributions Act (FICA) tax, and the increased health insurance costs. On January 22, 1992, FSIS published a proposed rule in the Federal Register (57 FR 2483) to increase the fees charged by FSIS to provide overtime and holiday inspection, voluntary inspection, identification, certification, or

laboratory services to meat and poultry establishments.

Agency Response to Comments

The Agency received two comments in response to the proposal. One commenter was from a trade association representing a segment of the industry and the other commenter was a corporation with multiple plants. Both commenters indicated that the Agency should do more to control program costs and minimize charges to industry.

The day-to-day costs of providing inspection services under the requirements of the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) are borne by the Federal Government through the annual Congressional appropriations process. However, the Department is required by the FMIA (21 U.S.C. 695) and PPIA (21 U.S.C. 468) to recover the costs of overtime and holiday inspection services from those establishments which voluntarily elect to utilize such inspection services.

The rates provided for in this document are mandated statutorily and reflect only an incremental increase in the costs currently borne by those entities electing to utilize these and certain other voluntary inspection services. Therefore, the amendments are made as proposed.

List of Subjects in 9 CFR Part 391

Meat inspection; Poultry products inspection; Fees and charges.

Accordingly, the Federal meat and poultry products inspection regulations, 9 CFR chapter III, are amended as follows:

1. The authority citation for part 391 continues to read as follows:

Authority: 21 U.S.C. 601 *et seq.*, 460 *et seq.*; 7 CFR 2.17 (g) and (i), 2.55; 7 U.S.C. 394, 1622, and 1624.

2. Sections 391.2, 391.3, and 391.4 are revised to read as follows:

§ 391.2 Base time rate.

The base time rate for inspection services provided pursuant to sections 350.7, 351.8, 351.9, 352.5, 354.101, 355.12 and 362.5 shall be \$29.00 per hour, per program employee.

§ 391.3. Overtime and holiday rate.

The overtime and holiday rate for inspection services provided pursuant to sections 307.5, 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, 362.5 and 381.38 shall be \$29.72 per hours, per program employee.

§ 391.4 Laboratory services rate.

The rate for laboratory services provided pursuant to sections 350.7, 351.9, 352.5, 354.101, 355.12, and 362.5

shall be \$49.80 per hour, per program employee.

The Administrator has determined that good cause exists to make these amendments effective less than 30 days after publication in the **Federal Register**.

Done at Washington, DC, on: April 20, 1992.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 92-10093 Filed 4-29-92; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 40, 50, 51, 70, 75, 110, 140, 150, and 170

RIN 3150-AD90

Uranium Enrichment Regulations

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations concerning the licensing of uranium enrichment facilities to reflect changes made to the Atomic Energy Act of 1954, as amended (the Act) by the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990. The principal effect of these amendments is that uranium enrichment facilities will be licensed subject to the provisions of the Act pertaining to source material and special nuclear material rather than under the provisions pertaining to a production facility.

EFFECTIVE DATE: June 1, 1992.

FOR FURTHER INFORMATION CONTACT:

Mr. C.W. Nilsen, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3834.

SUPPLEMENTARY INFORMATION:

Background

On November 15, 1990, the President signed the "Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990," Public Law 101-575, which, among other things, amended the Atomic Energy Act (the Act) with respect to the licensing of uranium enrichment facilities. The principal effect of these changes is that uranium enrichment facilities will be licensed pursuant to the provisions of the Act pertaining to source material and special nuclear material rather than the provisions pertaining to a production facility. Under the new provisions, licensing of uranium enrichment

facilities will be a single step licensing process with one license issued pursuant to 10 CFR parts 40 and 70 rather than a two-part licensing process under 10 CFR part 50. The amendments to the Act which address the licensing of uranium enrichment facilities also mandate an environmental review, adjudicatory hearing, inspection before operation, and third party liability insurance. However, uranium enrichment facilities remain production facilities for other purposes of the Act such as controlling the export of specially designed or prepared uranium enrichment equipment and preservation of Federal authority in Agreement States.

On September 16, 1991 (56 FR 46739), the Commission published a proposed rule, which was essentially conforming in nature, to amend 10 CFR parts 2, 40, 50, 51, 70, 75, 110, 140, 150, and 170 as required to implement section 5 of Public Law 101-575 as it pertains to the licensing of uranium enrichment facilities.

Public Comment and NRC Response

The NRC received one comment letter on the proposed rule. Based on that comment, the Commission has made a nonsubstantive clarification in the wording of the regulatory text. The proposed wording "financial protection" and "public liability insurance" has been replaced with "liability insurance" in order to remove any perceived requirement for "Price-Anderson protection" which is not the intent of this amendment. This wording change was made to §§ 40.31(l), 70.22(m), 140.1(b), and 140.13b.

Final Rule Text

With the exception of these nonsubstantive changes and simplifying style changes, the text of the final rule is as proposed and published for comment in the **Federal Register** on September 16, 1991 (56 FR 46739).

To reflect the requirements of Public Law 101-575, a definition for uranium enrichment facility is added that includes both (1) a facility used for separating the isotopes of uranium or enrichment uranium in the isotope 235 and (2) any equipment or device capable of this action. The new definition continues to exclude laboratory scale facilities designed or used for experimental or analytical purposes from licensing as a uranium enrichment facility as was the case prior to enactment of Public Law 101-575. However, commercial laboratory scale enrichment becomes a licensed activity, and licensees are required to have

appropriate source material and special nuclear material licenses and to comply with all applicable regulations.

Uranium enrichment facilities remain production facilities for chapters other than Chapter 10, "Atomic Energy Licenses," and Chapter 18, "Judicial Review and Administrative Procedure," of the Act. Therefore, there is no change for purposes of controlling the export of specially designed or prepared uranium enrichment equipment and the preservation of Federal authority over uranium enrichment licensing in Agreement States.

Changes added to the Act by Public Law 101-575 contain five (5) new licensing requirements specific to the licensing of uranium enrichment facilities. The amendments to 10 CFR chapter I to implement these requirements include:

The requirement to conduct a single adjudicatory hearing before issuance of a license for construction and operation (§§ 40.33 and 70.23a);

The requirement prohibiting issuance of a license to allow construction and operation until a hearing is completed and a decision issued (§§ 40.32(g) and 70.31(e));

The requirement that an Environmental Impact Statement (EIS) be prepared in accordance with the National Environmental Policy Act before the licensing hearing is completed (§§ 40.31(k), 51.97(c), and 70.21(h));

The requirement that the Commission verify by inspection prior to commencement of operation that the facility has been constructed in accordance with the license, and publish a notice of the inspection results in the *Federal Register* (§§ 40.41(g) and 70.32(k)); and

The requirement that the licensee carry liability insurance against bodily injury, sickness, disease, death, loss of or damage to property, and loss of use of property arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of chemical compounds containing source material or special nuclear material. The insurance requirement specifically includes the chemical toxicity risks (§§ 40.32(g), 70.23(a)(12), and 140.13(b).

Environmental Impact: Categorical Exclusion

The NRC has determined that this regulation is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(1) and (3). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval number 3150-0020, -0021, -0009, -0039.

The public reporting burden for this collection of information is estimated to average 60,000 hours per licensee response, including the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB-7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-3019, [3150-0020, -0021, -0009, -0039], Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission prepared a regulatory analysis on this final rule. The analysis examines the costs and benefits of the alternatives considered by the Commission.

The Commission requested public comments on the draft regulatory analysis, but no comments were received. The final regulatory analysis is available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities. The final rule will affect only persons who build or operate enrichment facilities for producing enriched uranium. The owners of enrichment facilities do not fall within the scope of the definition of "small entities" set forth in section 601(3) of the Regulatory Flexibility Act, 15 U.S.C. 632, or the Small Business Size Standards set out in regulation issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule. Thus, a backfit analysis is not required for these

amendments because they do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 40

Criminal penalty, Government contracts, Hazardous materials—transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 50

Antitrust, Classification information, Criminal penalty, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 51

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 70

Criminal penalty, Hazardous materials—transportation, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 75

Criminal penalty, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalty, Export, Import, Incorporation by reference, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 140

Criminal penalty, Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 150

Criminal penalty, Hazardous materials—transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

10 CFR Part 170

Byproduct material, Non-payment penalty, Nuclear materials, Nuclear power plants and reactors, Source material, special nuclear material.

For the reasons set forth in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the Commission is adopting the following amendments to 10 CFR parts, 2, 40, 50, 51, 70, 75, 110, 140, 150, and 170.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for part 2 is revised to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97-425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721, also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955 as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.104 also issued under sec. 193, Pub. L. 101-575, 104 Stat. 2835 (42 U.S.C. 2243). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200-2.206 also issued under secs. 161b, i, o, 182, 186, 234, 68 Stat. 948-951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201(b), (i), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600-2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and table 1A of appendix C also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also

issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91-560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99-240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. In § 2.104, paragraph (b)(2) is revised to read as follows:

§ 2.104 Notice of hearing.

* * * * *

(b) * * *

(2) That, if the proceeding is not a contested proceeding, the presiding officer will determine:

(i) Without conducting a de novo evaluation of the application, whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's staff has been adequate to support affirmative findings on (b)(1)(i) through (iii) specified in this section and a negative finding on (b)(1)(iv) specified in this section proposed to be made and the issuance of the construction permit proposed by the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, and

(ii) If the application is for a construction permit for a nuclear power reactor, a testing facility, a fuel processing plant, a uranium enrichment facility, or other facility whose construction or operation has been determined by the Commission to have a significant impact on the environment, whether the review conducted by the Commission pursuant to the National Environmental Policy Act (NEPA) has been adequate.

* * * * *

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

3. The authority citation for part 40 is revised to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95-604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97-415, 96 Stat. 2067 (42 U.S.C. 2022); sec. 193, 104 Stat. 2835 (42 U.S.C. 2243).

Section 40.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68

Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 40.3, 40.7(g), 40.25(d)(1)-(3), 40.35 (a)-(d) and (f), 40.41 (b) and (c), 40.46, 40.51 (a) and (c), and 40.63 are issued under sec. 161b, 161i, and 161o, 68 Stat. 948, 949, and 950, as amended (42 U.S.C. 2201(b), 2201(i), and 2201(o)); and §§ 40.5, 40.9, 40.25 (c), (d)(3), and (4), 40.26(c)(2), 40.35(e), 40.42, 40.60, 40.61, 40.62, 40.64, and 40.65 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

4. In § 40.4, the term "Uranium Enrichment Facility" is added to read as follows:

§ 40.4 Definitions.

* * * * *

Uranium enrichment facility means:

(1) Any facility used for separating the isotopes of uranium or enriching uranium in the isotope 235, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(2) Any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

* * * * *

5. Section 40.5 is amended by adding paragraph (b)(1)(vi) to read as follows:

§ 40.5 Communications.

* * * * *

(b) * * *

(1) * * *

(vi) Uranium enrichment facilities.

* * * * *

6. Section 40.31 is amended by adding paragraphs (k) and (l) to read as follows:

§ 40.31 Applications for specific licenses.

* * * * *

(k) A license application for a uranium enrichment facility must be accompanied by an Environmental Report required under subpart A of part 51 of this chapter.

(l) A license application that involves the use of source material in a uranium enrichment facility must include the applicant's provisions for liability insurance.

7. Section 40.32 is amended by revising paragraph (e) and adding paragraph (g) to read as follows:

§ 40.32 General requirements for issuance of specific licenses.

* * * * *

(e) In the case of an application for a license for a uranium enrichment

facility, or for a license to possess and use source and byproduct material for uranium milling, production of uranium hexafluoride, or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment, the Director of Nuclear Material Safety and Safeguards or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to subpart A of Part 51 of this chapter, has concluded, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to this conclusion is grounds for denial of a license to possess and use source and byproduct material in the plant or facility. As used in this paragraph, the term "commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, roads necessary for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

(g) If the proposed activity involves use of source material in a uranium enrichment facility, the applicant has satisfied the applicable provisions of part 140 of this chapter.

8. A new § 40.33 is added to read as follows:

§ 40.33 Issuance of a license for a uranium enrichment facility.

(a) The Commission will hold a hearing pursuant to 10 CFR part 2, subparts A, G, and I, on each application with regard to the licensing of the construction and operation of a uranium enrichment facility. The Commission will publish public notice of the hearing in the *Federal Register* at least 30 days before the hearing.

(b) A license for a uranium enrichment facility may not be issued before the hearing is completed and a decision issued on the application.

9. Section 40.41 is amended by adding paragraph (g) to read as follows:

§ 40.41 Terms and conditions of licenses.

(g) No person may commence operation of a uranium enrichment facility until the Commission verifies through inspection that the facility has been constructed in accordance with the requirements of the license. The Commission shall publish notice of the inspection results in the *Federal Register*.

10. In § 40.65, the introductory text of paragraph (a) is revised to read as follows:

§ 40.65 Effluent monitoring reporting requirements.

(a) Each licensee authorized to possess and use source material in uranium milling, in production of uranium hexafluoride, or in a uranium enrichment facility shall:

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

11. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 50.5, 50.46 (a) and (b), and 50.54(c) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.5, 50.7(a), 50.10 (a)-(c), 50.34 (a) and (e), 50.44(a)-(c), 50.46 (a) and (b), 50.47(b), 50.48 (a), (c), (d), and (e), 50.49(a), 50.54 (a), (i), (j)(1), (l)-(n), (p), (q), (t), (v), and (y), 50.55(f), 50.55a (a), (c)-(e), (g), and (h), 50.59(c), 50.60(a), 50.62(c), 50.64(b), 50.65, and 50.80 (a) and (b) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.49 (d), (h), and (j), 50.54 (w), (z), (bb), (cc), and (dd), 50.55(e), 50.59(b), 50.61(b), 50.62(b), 50.70(a), 50.71 (a)-(c) and (e),

50.72(a), 50.73 (a) and (b), 50.74, 50.78, and 50.90 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

12. In § 50.2, paragraph (2) of the term "Production Facility" is revised to read as follows:

§ 50.2 Definitions.

As used in this part,

Production facility means:

(2) Any facility designed or used for the separation of the isotopes of plutonium, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

13. In § 50.33a, paragraph (e) is revised to read as follows:

§ 50.33a Information requested by the Attorney General for antitrust review.

(e) Any person who applies for a class 103 construction permit for a fuel reprocessing plant shall submit the information requested by the Attorney General for antitrust review, as a separate document, as soon as possible and in accordance with § 2.101 of this chapter.

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

14. The authority citation for part 51 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Subpart A also issued under National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853-854, as amended (42 U.S.C. 4332, 4334, 4335); and Pub. L. 95-604, Title II, 92 Stat. 3033-3041; and sec. 193, Pub. L. 101-575, 104 Stat. 2835 (42 U.S.C. 2243). Sections 51.20, 51.30, 51.60, 51.61, 51.80, and 51.97 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241, and sec. 148, Pub. L. 100-203, 101 Stat. 1330-223 (42 U.S.C. 10155, 10161, 10168). Section 51.22 also issued under sec. 274, 73 Stat. 688, as amended by 92 Stat. 3036-3038 (42 U.S.C. 2021) and under Nuclear Waste Policy Act of 1982, sec. 121, 96 Stat. 2228 (42 U.S.C. 10141). Sections 51.43, 51.67, and 51.109 also issued under Nuclear Waste Policy Act of 1982, sec. 114(f), 96 Stat. 2216, as amended (42 U.S.C. 10134(f)).

15. In § 51.14(a), the term "Uranium enrichment facility" is added to read as follows:

§ 51.14 Definitions.

(a) As used in this subpart,

Uranium enrichment facility means:

(1) Any facility used for separating the isotopes for uranium or enriching uranium in the isotope 235, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(2) Any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

16. Section 51.20 is amended by adding paragraph (b)(10) to read as follows:

§ 51.20 Criteria for and identification of licensing and regulatory actions requiring environmental impact statements.

(b) ***

(10) Issuance of a license for a uranium enrichment facility.

17. Section 51.60 is amended by adding paragraph (b)(1)(vii) to read as follows:

§ 51.60 Environmental report—materials licenses.

(b) ***

(1) ***

(vii) Construction and operation of a uranium enrichment facility.

18. Section 51.97 is amended by adding paragraph (c) to read as follows:

§ 51.97 Final environmental impact statement—materials license.

(c) *Uranium enrichment facility.* As provided in section 5(e) of the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990 (104 Stat. 2834 at 2835, 42 U.S.C. 2243), a final environmental impact statement must be prepared before the hearing on the issuance of a license for a uranium enrichment facility is completed.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

19. The authority citation for part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); sec. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846); sec. 193, 104 Stat. 2835 (42 U.S.C. 2243).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section

70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 70.3, 70.7(g), 70.10, 70.19(c), 70.21(c), 70.22 (a), (b), (d)-(k), 70.24 (a) and (b), 70.32 (a)(3), (5), (6), (d), and (i), 70.36, 70.39 (b) and (c), 70.41(a), 70.42 (a) and (c), 70.56, 70.57 (b), (c), and (d), 70.58 (a)-(g)(3), and (h)-(j) are issued under sec. 161b, 161i, and 161o, 68 Stat. 948, 949, and 950, as amended (42 U.S.C. 2201(b), 2201(i), and 2201(o)); §§ 70.7, 70.10, 70.20a (a) and (d), 70.20b (c) and (e), 70.21(c), 70.24(b), 70.32 (a)(6), (c), (d), (e), and (g), 70.36, 70.51 (c)-(g), 70.56, 70.57 (b) and (d), and 70.58 (a)-(g)(3) and (h)-(j) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.5, 70.9, 70.20b (d) and (e), 70.38, 70.50, 70.51 (b) and (i), 70.52, 70.53, 70.54, 70.55, 70.58 (g)(4), (k), and (l), 70.59, and 70.60 (b) and (c) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

20. In § 70.4, the term "Uranium enrichment facility" is added to read as follows:

§ 70.4 Definitions.

Uranium enrichment facility means:

(1) Any facility used for separating the isotopes of uranium or enriching uranium in the isotope 235, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(2) Any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

21. Section 70.5 is amended by adding paragraph (b)(1)(vii) to read as follows:

§ 70.5 Communications.

(b) ***

(1) ***

(vii) Uranium enrichment facilities.

22. In § 70.8, paragraph (b) is revised to read as follows:

§ 70.8 Information collection requirements: OMB approval.

(b) The approved information collection requirements contained in this part appear in §§ 70.19, 70.20a, 70.20b, 70.21, 70.22, 70.24, 70.25, 70.32, 70.33, 70.34, 70.38, 70.39, 70.42, 70.50, 70.51, 70.52, 70.53, 70.57, 70.58, 70.59, and 70.60.

23. Section 70.21 is amended by revising paragraph (a)(1) and adding paragraph (h) to read as follows:

§ 70.21 Filing.

(a)(1) A person may apply for a license to possess and use special nuclear material in a plutonium processing or fuel fabrication plant, or for a uranium enrichment facility license by filing 25 copies of the application with the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(h) A license application for a uranium enrichment facility must be accompanied by an Environmental Report required under subpart A of part 51 of this chapter.

24. Section 70.22 is amended by adding paragraph (n) to read as follows:

§ 70.22 Contents of applications.

(n) A license application that involves the use of special nuclear material in a uranium enrichment facility must include the applicant's provisions for liability insurance.

25. Section 70.23 is amended by revising paragraphs (a)(7) and (a)(11) and by adding paragraph (a)(12) to read as follows:

§ 70.23 Requirements for the approval of applications.

(a) ***

(7) Where the proposed activity is processing and fuel fabrication, scrap recovery, conversion of uranium hexafluoride, uranium enrichment facility construction and operation, or any other activity which the Commission determines will significantly affect the quality of the environment, the Director of Nuclear Material Safety and Safeguards or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to subpart A of part 51 of this chapter, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to this conclusion is grounds for denial to possess and use special nuclear material in the plant or facility. As used in this paragraph, the term "commencement of construction"

means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, roads necessary for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

(11) Where the proposed activity is processing and fuel fabrication, scrap recovery, conversion of uranium hexafluoride, or involves the use of special nuclear material in a uranium enrichment facility, the applicant's proposed emergency plan is adequate.

(12) Where the proposed activity is use of special nuclear material in a uranium enrichment facility, the applicable provisions of part 140 of this chapter have been satisfied.

26. A new § 70.23a is added to read as follows:

§ 70.23a Hearing required for uranium enrichment facility.

The Commission will hold a hearing under 10 CFR part 2, subparts A, G, and I, on each application for issuance of a license for construction and operation of a uranium enrichment facility. The Commission will publish public notice of the hearing in the Federal Register at least 30 days before the hearing.

27. Section 70.25 is amended by revising paragraph (a) to read as follows:

§ 70.25 Financial assurance and recordkeeping for decommissioning.

(a) Each applicant for a specific license of the types described in paragraphs (a)(1) and (2) of this section shall submit a decommissioning funding plan as described in paragraph (e) of this section.

(1) A specific license for a uranium enrichment facility;

(2) A specific license authorizing the possession and use of unsealed special nuclear material in quantities exceeding 10^5 times the applicable quantities set forth in appendix C to §§ 20.1–20.601 of 10 CFR part 20. A decommissioning funding plan must also be submitted when a combination of isotopes is involved if R divided by 10^5 is greater than 1 (unity rule), where R is the sum of the ratios of the quantity of each isotope to the applicable value in appendix C to §§ 20.1–20.601 of 10 CFR part 20.

28. Section 70.31 is amended by adding paragraph (e) to read as follows:

§ 70.31 Issuance of licenses.

(e) No license to construct and operate a uranium enrichment facility may be issued until a hearing pursuant to 10 CFR part 2, subparts G and I, is completed and decision issued on the application.

29. Section 70.32 is amended by adding paragraph (k) to read as follows:

§ 70.32 Conditions of licenses.

(k) No person may commence operation of a uranium enrichment facility until the Commission verifies through inspection that the facility has been constructed in accordance with the requirements of the license. The Commission shall publish notice of the inspection results in the Federal Register.

30. Section 70.59 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 70.59 Effluent monitoring reporting requirements.

(a) Each licensee authorized to possess and use special nuclear material for processing and fuel fabrication, scrap recovery, conversion of uranium hexafluoride, or in a uranium enrichment facility shall:

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF US/IAEA AGREEMENT

31. The authority citation for part 75 is revised to read as follows:

Authority: Secs. 53, 63, 103, 104, 122, 161, 68 Stat. 930, 932, 936, 937, 939, 948, as amended (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 5 Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243).

Section 75.4 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); the provisions of this part are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

32. In § 75.4, paragraph (k)(6) is added to read as follows:

§ 75.4 Definitions.

As used in this part:

(k) * * *

(6) Any facility used for separating the isotopes of uranium or enriching uranium in the isotope 235, except laboratory scale facilities designed or used for experimental or analytical purposes only; or any equipment or device, or important component part

especially designed for such equipment or device, capable of separating the isotopes of uranium or enrichment uranium in the isotope 235.

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

33. The authority citation for part 110 is revised to read as follows:

Authority: Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 5, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243).

Section 110.1(b)(2) also issued under Pub. L. 96–92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d., 88 Stat. 473, 475 (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99–440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.30–110.35 also issued under 5 U.S.C. 553.

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 110.20–110.29, 110.50, and 110.120–110.129 also issued under secs. 161b and i, 68 Stat. 948, 949, as amended (42 U.S.C. 2201(b) and (i)); and §§ 110.7a, 110.7b, and 110.53 also issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

34. In § 110.2, the term "Uranium enrichment facility" is added to read as follows:

§ 110.2 Definitions.

Uranium enrichment facility means:

(1) Any facility used for separating the isotopes of uranium or enriching uranium in the isotope 235, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(2) Any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

35. Section 110.9a is amended by adding paragraph (e) to read as follows:

§ 110.9a List of nuclear equipment and material under NRC import licensing authority.

(e) Uranium enrichment facilities.

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

36. The authority citation for part 140 is revised to read as follows:

Authority: Secs. 161, 170, 68 Stat. 948, 71 Stat. 576, as amended (42 U.S.C. 2201, 2210); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Section 140.13b is issued under sec. 193(d), 104 Stat. 2835 (42 U.S.C. 2243).

For purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 140.11(a), 140.12(a), 140.13, and 140.13a are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and § 140.6 is issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

37. Section 140.1 is revised to read as follows:

§ 140.1 Purpose.

The regulations in this part are issued to provide appropriate procedures and requirements for determining:

(a) The financial protection required of licensees and for the indemnification and limitation of liability of certain licensees and other persons pursuant to section 170 of the Atomic Energy Act of 1954, as amended; and

(b) The liability insurance required of uranium enrichment facility licensees pursuant to section 193 of the Atomic Energy Act of 1954, as amended.

38. In § 140.2, paragraph (a)(4) is added to read as follows:

§ 140.2 Scope.

(a) * * *

(4) To each person licensed pursuant to parts 40 and 70 of this chapter to construct and operate a uranium enrichment facility.

39. Section 140.3 is amended by adding a new paragraph (m) to read as follows:

§ 140.3 Definitions.

As used in this part:

(m) *Uranium enrichment facility* means:

(1) Any facility used for separating the isotopes of uranium or enriching uranium in the isotope 235, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(2) Any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

40. In § 140.9a, paragraph (b) is revised to read as follows:

§ 140.9a Information collection requirements: OMB approval.

(b) The approved information collection requirements contained in this part appear in §§ 140.6, 140.7, 140.13b, 140.15, 140.17, 140.20, 140.21 and 140.22.

41. A new § 140.13b is added to read as follows:

§ 140.13b Amount of liability insurance required for uranium enrichment facilities.

Each holder of a license issued under Parts 40 or 70 of this chapter for a uranium enrichment facility that involves the use of source material or special nuclear material is required to have and maintain liability insurance. The liability insurance must be the type and in the amounts the Commission considers appropriate to cover liability claims arising out of any occurrence within the United States that causes, within or outside the United States, bodily injury, sickness, disease, death, loss of or damage to property, or loss of use of property arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of chemical compounds containing source material or special nuclear material. Proof of liability insurance must be filed with the Commission as required by § 140.15 before issuance of a license for a uranium enrichment facility under parts 40 and 70 of this chapter.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

42. The authority citation for part 150 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 5, Pub. L. 101-575, 104 Stat. 2835 (42 U.S.C. 2243).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.15 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 150.20(b) (2)-(5) and 150.21 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); § 150.14 and 150.20(b)(3) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 150.16-150.19 and 150.20(b)(1) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

43. In § 150.3, paragraph (h) is revised and paragraph (m) is added to read as follows:

§ 150.3 Definitions.

(h) *Production facility* means:

(1) Any equipment or device determined by rule of the Commission to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, including a uranium enrichment facility; or

(2) Any important component part especially designed for such equipment or device as determined by the Commission.

(m) *Uranium enrichment facility* means:

(1) Any facility used for separating the isotopes of uranium or enriching uranium in the isotope 235, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(2) Any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

44. The authority citation for part 170 continues to read as follows:

Authority: 31 U.S.C. 9701, 96 Stat. 1051; sec. 301, Pub. L. 92-314, 86 Stat. 222 (42 U.S.C. 2201w); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

45. In § 170.3, paragraph (2) of the term "production facility" is revised and a new term "Uranium enrichment facility" is added to read as follows:

§ 170.3 Definitions.

As used in this part:

Production facility means:

(2) Any facility designed or used for the separation of the isotopes of plutonium, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

Uranium enrichment facility means:

(1) Any facility used for separating the isotopes of uranium or enriching

uranium in the isotope 235, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(2) Any equipment or device, or important component part especially designed for this equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

§ 170.21 [Amended]

46. In § 170.21, the table "Schedule of Facility Fees" is amended by removing and reserving Category E, Uranium Enrichment Plant.

47. In § 170.31, the table "Schedule of Materials Fees" is revised by adding 1E to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections and import and export licenses.

SCHEDULE OF MATERIALS FEES

[See footnotes at the end of table]

Category of materials licenses and type of fees ¹	Fee ^{2,3}
1. Special nuclear material:	
E. Licenses for construction and operation of a uranium enrichment facility.	
Application.....	\$125,000
License, Renewal, Amendment.....	Full cost
Inspection:	
Routine.....	Full cost
Nonroutine.....	Full cost

¹ Types of fees—Separate charges as shown in the schedule will be assessed for preapplication consultations and reviews, applications for new licenses and approvals, issuance of new licenses and approvals, amendments and renewals to existing licenses and approvals, safety evaluations of sealed sources and devices, and inspections. The following guidelines apply to these charges:

(a) Application fees—Applications for new materials licenses and approvals; applications to reinstate

expired licenses and approvals except those subject to fees assessed at full cost; and applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20, must be accompanied by the prescribed application fee for each category, except that:

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category; and

(2) Applications for licenses under fee Category 1E must be accompanied by an application fee of \$125,000.

(b) License/approval/review fees—Fees for applications for new licenses and approvals and for preapplication consultations and reviews subject to full cost fees (fee Categories 1A, 1B, 1E, 2A, 4A, 5B, 10A, 11, 12, 13A, and 14) are due upon notification by the Commission in accordance with § 170.12 (b), (e), and (f).

(c) Renewal/reapproval fees—Applications for renewal of licenses and approvals must be accompanied by the prescribed renewal fee for each category, except that fees for applications for renewal of licenses and approvals subject to full cost fees (fee Categories 1A, 1B, 1E, 2A, 4A, 5B, 10A, 11, 12, 13A, and 14) are due upon notification by the Commission in accordance with § 170.12(d).

(d) Amendment fees—(1) Applications for amendments to licenses and approvals, except those subject to fees assessed at full cost, must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to a license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category applies. For those licenses and approvals subject to full costs (fee Categories 1A, 1B, 1E, 2A, 4A, 5B, 10A, 11, 12, 13A, and 14), amendment fees are due upon notification by the Commission in accordance with § 170.12(c).

(2) An application for amendment to a materials license or approval that would place the license or approval in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for the new category.

(3) An application for amendment to a license or approval that would reduce the scope of a licensee's program to a lower fee category must be accompanied by the prescribed amendment fee for the lower fee category.

(4) Applications to terminate licenses authorizing small materials programs, when no dismantling or decontamination procedures are required, are not subject to fees.

(e) Inspection fees—Separate charges will be assessed for each routine and nonroutine inspection performed, including inspections conducted by the NRC of Agreement State licensees who conduct activities in non-Agreement States under the reciprocity provisions of 10 CFR 150.20. Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. If a licensee holds more than one materials license at a single location, a fee equal to the highest fee category covered by the licenses will be

assessed if the inspections are conducted at the same time, unless the inspection fees are based on the full cost to conduct the inspection. The fees assessed at full cost will be determined based on the professional staff time required to conduct the inspection multiplied by the rate established under § 170.20 to which any applicable contractual support services costs incurred will be added. Licenses covering more than one category will be charged a fee equal to the highest fee category covered by the license. Inspection fees are due upon notification by the Commission in accordance with § 170.12(g). See Footnote 5 for other inspection notes.

² Fees will not be charged for orders issued by the Commission pursuant to 10 CFR 2.204 nor for amendments resulting specifically from such Commission orders. However, fees will be charged for approvals issued pursuant to a specific exemption provision of the Commission's regulations under title 10 of the Code of Federal Regulations (e.g., §§ 30.11, 40.14, 70.14, 73.5, and any other sections now or hereafter in effect) regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in Category 9A through 9D.

³ Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For those applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application will be determined at the professional rates established for the June 20, 1984, January 30, 1989, July 2, 1990, and July 10, 1991, rules, as appropriate. For those applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984, and July 2, 1990 rules, but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports whose costs exceed \$50,000. Costs which exceed \$50,000 for each topical report, amendment, revision or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the rate established in § 170.20. In no event will the total review costs be less than twice the hourly rate shown in § 170.20.

Dated at Rockville, Maryland, this 23d day of April, 1992.

For the Nuclear Regulatory Commission,

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 92-9980 Filed 4-29-92; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION**13 CFR Part 121****Small Business Size Standards; Waiver of the Nonmanufacturer Rule****AGENCY:** Small Business Administration.**ACTION:** Notice to terminate waiver of the Nonmanufacturer Rule for methanol, acetone, nitric acid, and titanium (bars, rods, plates, sheets, and strips).

SUMMARY: The Small Business Administration (SBA) is terminating the waivers of the Nonmanufacturer Rule for several classes of products. Under Product and Service Code (PSC) 6810, we are terminating the waivers for methanol, acetone and nitric acid. We are also terminating the waivers for titanium bars and rods under PSC 9530 and for titanium plates, sheets, and strips under PSC 9535. SBA announced waivers for methanol, acetone, nitric acid, and titanium bars and rods in the *Federal Register* on May 15, 1991, p. 22306. SBA announced waivers for titanium plates, sheets, and strips in the *Federal Register* on August 23, 1992, p. 41787. The decision to terminate the waivers of the Nonmanufacturer Rule is based on our recent discovery of small business manufacturers for these classes of products. Terminating the waivers will require recipients of contracts set aside for small or 8(a) businesses to provide the products of small business manufacturers or processors.

EFFECTIVE DATE: July 29, 1992.**FOR FURTHER INFORMATION CONTACT:** James Parker, Procurement Analyst, phone (703) 695-2435.

SUPPLEMENTARY INFORMATION: Public Law 100-656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small businesses or SBA 8(a) Program procurements must provide the products of small business manufacturers or processors. The SBA regulations imposing this requirement are found at 13 CFR 121.906(b) and 121.1106(b). Section 210 of Public Law 101-574 further amended the law to allow for waivers for classes of products for which there are no small business manufacturers or processors "available to participate in the Federal procurement market."

SBA has recently been advised of the existence of small business manufacturers for methanol, acetone, nitric acid and titanium bars, rods, plates, sheets, and strips. Thus, the waivers previously granted for methanol, acetone and nitric acid under

PSC 6810 and titanium under PSC 9530 and 9535 are terminated.

Dated: April 21, 1992.

Robert J. Moffitt,
Chairman, Size Policy Board.

[FR Doc. 92-9998 Filed 4-29-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 91-CE-96-AD; Amendment 39-8246; AD 92-10-12]

Airworthiness Directives; Beech 100 and 200 Series Airplanes**AGENCY:** Federal Aviation Administration, DOT.**ACTION:** Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 91-18-11, which currently requires a one-time inspection and modification of the aft cowl doors of both engine nacelles on Beech 100 and 200 series airplanes. Since issuance of that AD, the Federal Aviation Administration (FAA) has determined that early production Beech 200 series airplanes have different stiffening beads on the inside of the cowl doors, which require additional work than was specified in the service information. Updated service information has been issued, which specifies procedures for inspecting and modifying the aft cowl doors of both engine nacelles on all of the affected airplanes. This action will retain the inspection and modification of AD 91-18-11 and will incorporate this new service information. The actions specified by this AD are intended to prevent separation of the aft cowl door, which could result in occupant injury if decompression or structural damage occurs.

DATES: Effective June 12, 1992. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 12, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. This information may also be examined at the Federal Aviation Administration, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Peterson, Aerospace

Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4145.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain Beech 100 and 200 series airplanes was published in the *Federal Register* on January 15, 1992 (57 FR 1690). The action proposed superseding AD 91-18-11 with a new AD that would (1) retain the engine cowl door inspection and modification requirements of AD 91-18-11; and (2) incorporate the inspection and modification procedures of Beech Service Bulletin No. 2416, Revision I, dated December 1991.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public. After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA anticipates that 1,730 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 28 hours per airplane to accomplish the required action, and that the average labor rate is approximately \$55 an hour. Parts cost approximately \$150 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$2,923,700. The cost impact of AD 91-18-11 is \$1,781,900 (16 hours times \$55 plus \$150 for parts times 1,730 airplanes). This action will only require an additional cost impact of \$1,730 (12 hours times \$55 times 1,730 airplanes). However, the additional 12 hours it would take to accomplish this AD is only applicable to early production Beech 200 series airplanes. Because the FAA has no available way of determining how many airplanes may be affected, the entire fleet number was used. The FAA anticipates the number of airplanes affected by the additional cost to be much smaller.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels

of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 91-18-11, Amendment 39-8014 (56 FR 41927, August 26, 1991), and adding the following new AD:

92-10-12 Beech Aircraft Corporation: Amendment 39-8246; Docket No. 91-CE-96-AD. Supersedes AD 91-18-11; Amendment 39-8014.

Applicability: The following model and serial number airplanes, certificated in any category:

Model	Serial numbers
200 and B200.....	BB-2 and BB-6 through BB-1404.
200C and B200C.....	BL-1 through BL-72 and BL-124 through BL-137.
200CT and B200CT....	BN-1 through BN-4.
200T and B200T.....	BT-1 through BT-33.
A100-1 (U-21J).....	BB-3, BB-4, and BB-5.
A200 (C-12A).....	BC-1 through BC-75.
A200 (C-12C).....	BD-1 through BD-30.
A200C (UC-12B).....	BJ-1 through BJ-66.
A200CT (C-12D).....	BP-1, BP-22, and BP-24 through BP-51.
A200CT (FWC-12D)....	BP-7 through BP-11.
A200CT (RC-12D).....	CR-1 through CR-13.

Model	Serial numbers
A200CT (C-12F).....	BP-52 through BP-71.
A200CT (RC-12G).....	FC-1, FC-2, and FC-3.
A200CT (RC-12H).....	GR-14 through GR-19.
B200C (C-12F).....	BL-73 through BL-112 and BL-118 through BL-123.
B200C (UC-12F).....	BU-1 through BU-10.
B200C (RC-12F).....	BU-11 and BU-12.
B200C (UC-12M).....	FC-1, FC-2, and FC-3.
B200C (RC-12M).....	BV-11 and BV-12.

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished (supersedes AD 91-18-11).

To prevent separation of the aft cowling doors, which could result in occupant injury if decompression or structural damage occurs, accomplish the following:

(a) Inspect and modify the aft engine cowling doors of both engine nacelles in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech Mandatory Service Bulletin (SB) No. 2416, Revision I, dated December 1991.

(b) If the aft engine cowling doors of both nacelles have been inspected and modified in accordance with the original issue of Beech SB No. 2416, dated July 1991, (as required by superseded AD 91-18-11), then no further action is required by this AD.

Note 1: The configuration of certain early model airplanes made compliance with the original issue of Beech SB No. 2416 impossible as required by superseded AD 91-18-11. Service (SVR) 025 was approved as an alternative method of compliance for portions of superseded AD 91-18-11 on some of the affected early model airplanes.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(e) The inspections and modifications required by this AD shall be done in accordance with Beech Mandatory Service Bulletin No. 2416, Revision I, dated December 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 1100 L Street, NW, room 8401, Washington, DC.

(f) This amendment (39-8246) supersedes AD 91-18-11, Amendment 39-8014.

(g) This amendment (39-8246) becomes effective on June 12, 1992. Issued in Kansas City, Missouri, on April 23, 1992.

Joseph H. Snitkoff,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-9950 Filed 4-29-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 103

[Docket No. R-92-1599; FR-3236-F-01]

Fair Housing Complaint Processing; Final Rule—Technical Amendment

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends HUD's regulations governing complaint processing procedures under the Fair Housing Act. The current regulations require that if the Assistant Secretary for Fair Housing and Equal Opportunity or the General Counsel determines that no reasonable cause exists, the Assistant Secretary or the General Counsel shall, among other actions, notify the aggrieved person and the respondent of the dismissal of the complaint by certified mail or personal service (24 CFR 103.400). The purpose of this rule is to simplify and streamline the procedure associated with Fair Housing complaint processing by permitting the Assistant Secretary for Fair Housing and Equal Opportunity or the General Counsel to notify the aggrieved person and the respondent of the dismissal of a complaint by regular United States mail, rather than by certified mail or personal service.

EFFECTIVE DATE: June 1, 1992.

FOR FURTHER INFORMATION CONTACT:

Roy J. Rodriguez, (202) 619-8041, Deputy Director, Office of Investigations, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. (The telephone number set forth above is not a toll-free number.) The TDD number for persons with hearing impairments who may wish to use this number for information or assistance is (202) 401-4913. (The TDD number set forth above is not a toll-free number.)

SUPPLEMENTARY INFORMATION:**Background**

Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601-3619) (Fair Housing Act or the Act) made it unlawful to discriminate in the sale, rental, or financing of dwellings because of race, color, religion, sex, or national origin. Under the provisions of the Act, persons who believed that they had been subjected to, or were about to be subjected to, a discriminatory housing practice could file a complaint with the Secretary of Housing and Urban Development. The Act required the Department of Housing and Urban Development (HUD) to investigate each complaint and, where the Department determined to resolve the matters raised in a complaint, to engage in informal efforts to conciliate the issues. Where these informal efforts to conciliate were unsuccessful, the original Fair Housing Act did not provide the Secretary with any administrative mechanism for redressing acts of discrimination against an individual. In addition, while the Secretary could refer a case involving a pattern or practice of discrimination to the Attorney General for the initiation of a civil action, Federal courts did not award individual relief to the victims of discrimination in such cases.

The Fair Housing Amendments Act of 1988 (Pub. L. 100-430, approved September 13, 1988) was enacted to strengthen the administrative enforcement provisions in the Act, and to add new protections. The amended Fair Housing Act became effective on March 12, 1989. HUD's final rule implementing the Amendments Act changes was published on January 23, 1989 (54 FR 3232) and also became effective on March 12, 1989.

Section 810(g)(3) of the Fair Housing Act provides that if the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint and shall make public disclosure of each such dismissal. The existing regulation provides that the Assistant Secretary for Fair Housing and Equal Opportunity or the General Counsel shall notify the aggrieved person and the respondent of the dismissal of a complaint by certified mail or personal service (24 CFR 103.400).

This rule will permit HUD to notify the aggrieved person and the respondent of the dismissal of a complaint (including the written statement of facts) by regular United States mail, rather than by certified mail or personal service. There is no statutory requirement that notification of the

aggrieved person and the respondent be made by certified mail or personal service. The use of regular United States mail will be less expensive and will provide greater convenience, expediency, and simplicity, and will ease the administrative burden.

The final rule is a technical, procedural change which only affects internal agency procedures. This rule does not affect substantive rights. During the development of regulations implementing the Fair Housing Amendments Act (see 54 FR 3232 published January 23, 1989), no comments were received concerning the matter affected by this change (see 54 FR 3232-3282). For these reasons, the Department finds that notice and comment are unnecessary.

Other Matters

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Secretary, in approving this rule, has certified that this rule does not have a significant economic impact on a substantial number of small entities. The rule change is a technical, procedural change which only affects operations within HUD. The rule does not affect substantive rights.

Similarly, there are no Federalism or Family implications associated with this technical change, and the rule is categorically excluded from the NEPA-related requirements of 24 CFR part 50, in accordance with 50.20(k).

List of Subjects in 24 CFR Part 103

Administrative practice and procedure, Fair Housing.

Accordingly, title 24 of the Code of Federal Regulations, part 103, is amended as follows:

PART 103—FAIR HOUSING—COMPLAINT PROCESSING

1. The authority citation for part 103 is revised to read as follows:

Authority: 42 U.S.C. 3601-3619; 42 U.S.C. 3535(d).

2. Paragraphs (a)(1) and (a)(2)(ii) of § 103.400 are revised to read as follows:

§ 103.400 Reasonable cause determination.

(a) * * *

(1) If the Assistant Secretary for Fair Housing and Equal Opportunity determines that, based on the totality of factual circumstances known at the time of the Assistant Secretary's review, no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Assistant Secretary shall: Issue a short and plain written statement of the facts

upon which the Assistant Secretary has based the no reasonable cause determination; dismiss the complaint; notify the aggrieved person and the respondent of the dismissal (including the written statement of facts) by mail; and make public disclosure of the dismissal. The respondent may request that no public disclosure be made. Notwithstanding such a request, the fact of dismissal, including the names of the parties, shall be public information available on request. The Assistant Secretary's determination shall be based solely upon the facts concerning the alleged discriminatory housing practice provided by complainant and respondent and otherwise disclosed during the investigation. In making this determination, the Assistant Secretary shall consider whether the facts concerning the alleged discriminatory housing practice are sufficient to warrant the initiation of a civil action in federal court.

(2) * * *

(ii) If the General Counsel determines that no reasonable cause exists, the General Counsel shall: Issue a short and plain written statement of the facts upon which the General Counsel has based the no reasonable cause determination; dismiss the complaint; notify the aggrieved person and the respondent of the dismissal (including the written statement of facts) by mail; and make public disclosure of the dismissal. The respondent may request that no public disclosure be made. Notwithstanding such a request, the fact of dismissal, including the names of the parties, shall be public information available on request.

* * * * *

Dated: April 23, 1992.

Gordon H. Mansfield,
Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 92-10091 Filed 4-29-92; 8:45 am]
BILLING CODE 4210-28-M

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[COTP Hampton Roads, Regulation 92-05-12]

Safety Zone Regulations: Chesapeake Bay, Newport News Channel, James River, Port of Hampton Roads, VA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone around the USS GEORGE WASHINGTON as it transits from Newport News Shipbuilding to sea and from sea to Newport News Shipbuilding on May 11, 1992, and May 14, 1992, respectively. This zone is needed to ensure the safety of mariners operating in the vicinity from hazards that may result when the USS GEORGE WASHINGTON transits to and from sea. Entry into this zone is prohibited unless authorized by the Captain of the Port or his designated representative.

EFFECTIVE DATES: This regulation becomes effective upon the departure of the USS GEORGE WASHINGTON from Newport News Shipbuilding at approximately 6 a.m. on May 11, 1992, and terminates when the vessel is beyond the Chesapeake Bay Junction Lighted Gong Buoy "CBJ" at approximately 11:30 a.m. on May 11, 1992, unless sooner terminated by the Captain of the Port. This regulation also becomes effective upon the return from sea of the USS GEORGE WASHINGTON at the Chesapeake Bay Junction Lighted Gong Buoy "CBJ" at approximately 10:30 a.m. on May 14, 1992, and terminates when the vessel is moored at Newport News Shipbuilding, unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LTJG S.R. Young III, Project Officer, USCG Marine Safety Office Hampton Roads, telephone number (804) 441-3290.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is required to ensure the safety of mariners operating in the vicinity of the USS GEORGE WASHINGTON.

Drafting Information

The drafters of this regulation are LTJG S.R. Young III, project officer for the Captain of the Port, Hampton Roads, and LT Monica L. Lombardi, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Regulation

A moving safety zone is being established around the USS GEORGE WASHINGTON during its transit to and from sea. This zone is needed to ensure the safety of mariners in the vicinity from hazards that may be created by the vessel's movement. Individuals or

vessels will not be permitted within 500 yards of the USS GEORGE WASHINGTON. The safety zone will be enforced when the vessel transits from Newport News Shipbuilding, commencing at 6 a.m. on May 11, 1992, and terminating at approximately 11 a.m. on May 11, 1992. The zone will also be enforced when the USS GEORGE WASHINGTON returns inbound, from the Chesapeake Bay Junction Lighted Gong Buoy "CBJ", and terminates once the vessel is moored at Newport News Shipbuilding, Newport News, Virginia at approximately 3:30 p.m. May 14, 1992. Coast Guard patrol vessels will be on scene at all times while the safety zone is in effect. Entry into this zone is prohibited unless authorized by the Captain of the Port or his designated representative.

Regulatory Evaluation

This regulation is considered to be non-major under Executive Order 12291 and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this rule is expected to be so minimal that a full regulation evaluation is unnecessary. This regulation will not impede the flow of normal commercial traffic in the area. The Coast Guard certifies that this rule will not have a significant economic impact on a substantial number of small entities. This proposal contains no information collecting or record keeping requirements.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, vessels waterways.

Regulation

In consideration of the foregoing, subpart F of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. A new § 165.T05-13 is added to read as follows:

§ 165.T05-13 Safety Zone: Chesapeake Bay, James River, Newport News Channel, Port of Hampton Roads, Virginia.

(a) *Location.* The following area is a safety zone: The waters within 500 yards of the USS GEORGE WASHINGTON as it transits from the Newport News Shipbuilding beyond the Chesapeake Bay Junction Lighted Gong Buoy "CBJ", and transits from "CBJ" to Newport News Shipbuilding.

(b) *Effective dates.* This regulation is effective from 6 a.m. on May 11, 1992, until 11:30 a.m. on May 11, 1992, unless sooner terminated by the Captain of the Port; and from 10:30 a.m. on May 14, 1992, until 3:30 p.m. on May 14, 1992, unless sooner terminated by the Captain of the Port, pending further changes in the scheduled arrival of the USS GEORGE WASHINGTON from sea.

(c) *Regulations.* (1) In accordance with the general regulations in Section 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads, Virginia or his designated representative. Section 165.23 also contains other general requirements which apply.

(2) Persons or vessels requiring entry into or passage through the safety zone must first request authorization from the Captain of the Port or his designated representative.

(3) *Definitions:* The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia, to act on his behalf. The following officers have been designated by the Captain of the Port: The Senior Coast Guard boarding officer on each vessel enforcing the safety zone and the Duty Officer at the Marine Safety Office, Hampton Roads, Virginia. The Senior Coast Guard Boarding Officer on the vessel enforcing the safety zone can be contacted on VHF-FM channels 13 and 16. The Captain of the Port, Hampton Roads, and the Duty Officer at the Marine Safety Office, Hampton Roads, Virginia, can be contacted at telephone number (804) 441-3314.

(4) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

Dated: April 27, 1992.

M.F. Pettingill,

Commander, U.S. Coast Guard, Alternate
Captain of the Port Hampton Roads.

[FR Doc. 10098 Filed 4-29-92; 8:45 am]

BILLING CODE 4910-14-M

Office of the Secretary

49 CFR Part 23

RIN 2105-AB70

[Docket No. 64; Amdt. 1]

Participation by Disadvantaged Business Enterprises in Airport Concessions

AGENCY: Office of the Secretary (OST),
DOT.

ACTION: Final rule.

SUMMARY: The Department of Transportation (DOT) is issuing a final rule to implement a provision in the Airport and Airway Improvement Act of 1982, as amended in 1987 (AAIA). The final rule establishes requirements for the participation of disadvantaged business enterprises (DBE) in airport concessions. It also amends the existing DOT DBE regulation.

EFFECTIVE DATE: This rule is effective June 1, 1992.

FOR FURTHER INFORMATION CONTACT: Ms. Irene H. Miels, General Legal Services Division (AGC-100), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591. Telephone: (202) 267-3473.

SUPPLEMENTARY INFORMATION:

Availability of Final Rule

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-430, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267-3464. Requests must identify the docket number of this final rule.

Persons interested in being placed on the mailing list for future notices of proposed rulemaking (NPRM's) should request from the above office a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distributing System, which describes the application procedure.

Background Information

Section 109, "Project Sponsorship," of the Airport and Airway Safety and Capacity Expansion Act of 1987 (AASCEA) amended section 511(a) of the AAIA to require recipients of

Federal assistance under the AAIA (sponsors) to provide an assurance relating to DBE's. Section 109 states:

(h) ASSURANCE RELATING TO DISADVANTAGED BUSINESS ENTERPRISES—Section 511(a) is further amended by adding at the end thereof the following new paragraph:

(17) the airport owner or operator will take such action as may be necessary to ensure that, to the maximum extent practicable, at least 10 percent of all businesses at the airport which sell food, beverages, printed materials, or other consumer products to the public are small business concerns (as defined by the Secretary by regulation) owned and controlled by socially and economically disadvantaged individuals (as defined under section 505(d)(2)(B) of the AAIA, as amended).

Section 505(d)(2)(B) defines socially and economically disadvantaged individuals as follows:

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS—The term 'socially and economically disadvantaged individuals' has the meaning such term has under section 8(d) [of the Small Business Act (15 U.S.C. Section 637(d))] and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged for purposes of this subsection.

In amending the AAIA, Congress also established a DBE program for Federally-assisted contracting on airports. See section 105(f) of the AASCEA, amending section 505 of the AAIA. This requirement, as set forth in section 505, was implemented by amending subpart D of the Department of Transportation's regulations, 49 CFR part 23, to add the Federal Aviation Administration (FAA). See 53 FR 18285, May 23, 1988. Previously, subpart D applied only to the Urban Mass Transportation (UMTA) and Federal Highway (FHWA) Administrations, implementing section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) (Pub. L. 100-17). See 52 FR 39225, Oct. 21, 1987.

It was not possible to implement section 109, the DBE concession amendment, in the same manner, since 49 CFR part 23 contains no DBE concession requirements. (Only the Federal Aviation Administration (FAA) has extensive concession activity, so the legislation applicable to UMTA and FHWA, which resulted in subpart D, addressed only Federally-assisted contracting.) Part 23 does set requirements for Minority Business Enterprise (MBE) and Women's Business Enterprise (WBE) programs, but these were established under other legislation. The MBE/WBE program has

been superseded, in the case of the FAA, by the DBE program now being established under section 109. Therefore, the Department has amended part 23 to implement section 109 by adding a new subpart F to establish requirements for a DBE concession program on airports.

In issuing this final rule, the Department has taken into account questions and issues raised about concession participation since 1980, when the MBE/WBE concession program was established through issuance of part 23, as well as numerous comments from airport sponsors that are recipients of DOT financial assistance; DBE and non-DBE entities; industry associations and representatives; and members of the United States Congress.

Summary of Contents of Final Rule

For the convenience of readers, the following is a short summary of the highlights of this final rule:

- The rule applies to any sponsor that has received a grant for airport development authorized by the AAIA, as amended by the AASCEA.

- Concession plans must be prepared and implemented by all primary airports (commercial service airports which have been determined by the Secretary to have more than 10,000 passengers enplaned annually). In addition, primary airports are subject to 3 general requirements set forth in § 23.93(a).

- Nonprimary airports (commercial service airports that are not primary airports, general aviation (GA), or reliever airports) are not required to prepare concession plans but shall take appropriate outreach steps to encourage available DBE's to participate as concessionaires whenever there is a concession opportunity. In addition, these airports are subject to the 3 general requirements set forth in § 23.93(a).

- A nondiscrimination statement shall be included by the sponsor in all concession agreements, and concessionaires must agree that a nondiscrimination statement will be included in any subsequent agreements, such as subleases, into which the concessionaire enters relative to its business on the airport.

- Concession means a for-profit enterprise, located on an airport subject to this subpart, that is engaged in the sale of consumer goods or services to the public under an agreement with the sponsor, another concessionaire, or the owner of a terminal, if other than the sponsor. Appendix A contains a listing of the types of businesses that frequently are operated as concessions.

The term "concession" does not include aeronautical activities such as scheduled and non-scheduled air carriers, air taxis, air charters, and air couriers, in their normal passenger or freight carrying capacities; fixed base operators (FBO); flight schools; and skydiving, parachute-jumping, flying guide services, and helicopter or other air tours.

Examples of other entities that do not meet the definition of a concession include suppliers, flight kitchens and in-flight caterers servicing air carriers; other businesses servicing airlines through the provision of fuel, skycap services, baggage handling, etc.; government agencies; industrial plants; farm leases; individuals leasing hangar space; custodial and security contracts; individual taxis with permits; telephone, electricity, gas, and other utilities; and management contracts. Concessions may be operated under leases, licenses, subleases, permits, contracts, and other instruments or arrangements. It is the nature of the operation, rather than the legal document, which determines the status of the enterprise.

- Except in the case of car rental agencies, pay telephone concessions, and banks, the standard for a "Small business concern" shall be the average of the preceding 3 years' annual gross receipts, not to exceed \$30,000,000 (adjusted periodically for inflation). The standard for pay telephone concessions shall be the employment of not more than 1,500 employees; and the standard for car rental agencies shall be the average of the preceding 3 years' annual gross receipts, not to exceed \$40,000,000 (adjusted periodically for inflation). The standard for banks shall be total assets of not more than \$100,000,000.

- Firms certified as MBE's/WBE's/or DBE's prior to the effective date of this subpart, pursuant to a requirement in § 23.43(d) or pursuant to DOT/FAA guidance, that have exceeded the size standard may be counted as DBE participation until the current agreement, including the exercise of options, expires, provided the firm remains otherwise eligible.

- Goals shall be based on gross receipts, except in those instances where the sponsor provides an acceptable rationale for calculating the goals as a percentage of the total number of concession agreements operating at the airport during the goal period.

- For purposes of calculating the goal as a percentage of the gross receipts, sponsors shall exclude from the calculation any portion of a firm's estimated gross receipts that will not be generated from a concession activity.

- The certification procedures set forth in § 23.51 of this part 23 are applicable to this subpart.

- On-site visits for certification purposes are not mandatory but may be performed to validate the certification information obtained from a DBE firm.

- Businesses operating as limited partnerships, in which a non-DBE is the general partner, and other arrangements that do not provide for ownership and control of a specified part of the business or a particular activity by the socially and economically disadvantaged owners are not eligible for certification as DBE's under this subpart.

- Sponsors may impose requirements on competitors for concession agreements as a means of achieving DBE goals.

- Awards of concession agreements that are made by private owners of terminal buildings are covered by this subpart. Airport sponsors subject to this subpart shall levy the applicable requirements on the terminal owner through the agreement or by other means, except that certifications shall be performed by the airport sponsor.

- A long-term, exclusive concession agreement is permitted under this subpart, provided that the FAA approves a plan for ensuring adequate DBE participation throughout the term of the agreement. The required elements of the plan are set forth in § 23.108 of this subpart and a plan must be submitted whether a DBE or a non-DBE enterprise is the prime concessionaire being considered for award of an exclusive, long-term lease. It no longer is necessary to apply to the Secretary of Transportation for an exemption from the prohibition against exclusive, long-term leases.

- Compliance with the requirements in this subpart is enforced through section 519 of the AAIA of 1982, as amended and any regulations issued pursuant thereto, and not through subparts D and E of this part.

Comments on Legal and Other Issues

The FAA received comments on the DBE concession NPRM from 163 persons and organizations. Commenters include 34 airport operators/owners; 92 fixed base operators (FBO's) and their representatives, including the National Air Transportation Association (NATA); 4 members of Congress; 2 airport industry associations—the Airport Operators Council, International (AOCI) and the American Association of Airport Executives (AAAE); 5 car rental agencies and their representatives, including the American Car Rental Association (ACRA); 4 other non-DBE

concessionaires; 3 DBE associations and consultants, including the Airport Minority Advisory Council (AMAC); and 6 DBE's.

The FAA also received comments from 15 architectural and engineering firms. These firms do not function as concessionaires, but as Federally-assisted contractors when hired by a recipient to perform on Federally-assisted projects. All of their comments concern the issue of the size limitations on DBE's.

The concessionaires that commented included the 92 FBO's; 1 baggage and cart service; 1 book seller; 5 car rental companies; 1 duty free establishment; 4 food services; 1 news and gift vendor; and 2 who did not identify their businesses.

Some commenters address single issues; others comment on a variety of issues. For ease of reference, comments are discussed in the order of the issues as they appeared in the NPRM, and related section numbers in the final rule are provided.

1. Is the Proposed Rule Constitutional?

Comments—Various commenters raise the issue of whether the proposed rule is constitutionally infirm because the statute itself is unconstitutional under the Fifth and Fourteenth Amendments of the United States Constitution.

DOT/FAA Response—It is the view of the Department that in enacting section 511(a)(17) to establish the DBE concession program on airports that are subject to the AAIA, Congress appropriately exercised its unique remedial powers. Congress' findings, establish a sufficiently "strong basis in evidence for its conclusion that remedial action was necessary." *Wygant v. Jackson Bd. of Educ.*, 476 U.S., at 277 (1986) (plurality opinion); *Richmond v. J.A. Croson Co.*, 488 U.S. 469, 500 (1989). Moreover, the framework is "narrowly tailored to remedy prior discrimination." *Id.* at 507. Therefore, the statute and regulation are constitutional.

2. Should the Definition of "Concession" include Services as Well as Products? (Section 23.89)

Comments—The FAA received 163 comments on the definition of "concession." Sixteen commenters find the proposed definition acceptable. Of these, 10 specifically support the inclusion of concessions that sell services as well as those that sell consumer goods. This group includes AMAC, an organization representing DBE's; major non-minority concessionaires such as DFS; and both

large and small DBE's. Commenters against the inclusion of service businesses include AOI, AAAE, and two individual airports. One commenter supports the inclusion of FBO's in the service concessions.

Four are adverse to the inclusion of any service concessions, with 91 specifically opposing the inclusion of FBO's, and 5 opposing the inclusion of car rental companies. One of the 5 opponents to the inclusion of car rental companies is ACRA, which represents most of the nation's car rental companies, including Avis, Inc., National Car Rental System, Inc., Budget Rent-A-Car Corporation, Alamo Rent-A-Car, Thrifty Rent-A-Car System, Inc., and Enterprise Rent-A-Car, their licensees and franchisees, as well as smaller independent companies. Many of their members operate airport concessions.

ACRA, in behalf of its members, objects to inclusion of car rental companies on the following bases:

a. Inclusion of car rental companies is impracticable, since they derive 90 percent or more of their rentals through prior off-airport reservations; they do not lend themselves to leasing subdivisions; joint ventures raise difficult legal questions regarding who owns, maintains, insures, and defends and prosecutes lawsuits involving the fleet of vehicles; and gross receipts are difficult to forecast in view of the competition between car rental companies.

b. Inclusion of car rental companies will dilute corporate control and identity of the firms, since the regulation could force them into arrangements with licensees or franchisees that would be less suitable than company-owned operations.

c. The statute does not authorize DOT to include car rental companies within the scope of the rule. (The AOI and the AAAE, all of the FBO's, and two airports join ACRA in criticizing the inclusion of service concessions on this basis.)

Alamo Rent-A-Car supplemented ACRA's comments, as follows:

a. Expansion to include DBE ownership could result in its loss of Chapter "S" corporate status and exposure to substantially higher tax liability.

b. The DBE rule may be in conflict with state laws which prohibit requirements that would preclude a business from submitting bids or entering into contracts for rental concessions.

NATA and 91 FBO's also oppose inclusion of fixed based operators within the concession definition. In

addition to concurring with the car rental agencies generally, regarding coverage of the rule, this group favors exclusion for the following reasons:

a. The FBO's constitute the only aeronautical activity singled out for inclusion in the definition of concessions.

b. The sponsor assurances already ensure that there will be no discrimination in the provision of aeronautical services on airports.

c. The requirement to consider opportunities for DBE's whenever a lease is amended for any purpose will impede the development of FBO facilities, prevent changes in lease rates, and delay compliance with environmental regulations.

DOT/FAA Response—In regard to including service concessions in the coverage of the regulation, the language of section 511(a)(17) speaks in terms of businesses that sell "food, beverages, printed materials, and other consumer products," and the term "consumer products" is not defined in the statute. While several commenters provided dictionary and other definitions which describe "products" solely in terms of "goods," rather than services, the Department is not convinced that Congress defined "products" narrowly, given the legislative history of this section and the history of its forerunner, the MBE/WBE program.

The sponsor of this provision specifically state that section 109 was added to cover businesses at airports that provide consumer goods and services:

Mr. Chairman, as reported by the Public Works and Transportation Committee, H.R. 2310 (which was enacted as the Airport and Airway Safety Capacity and Expansion Act of 1987, amending the Airport and Airway Improvement Act of 1982) provides for minority and female participation in airport improvement and development projects. However, it does not address the issue of minority and female participation in airport concessions and services.

As airports continue to expand and grow across this country, more and more opportunities are becoming available for businesses which provide consumer goods and services. This represents a significant potential for the creation of jobs and additional revenues for small firms. I believe that there should be at least a minimum level of commitment to these small minority and women-owned firms.

To date, this commitment simply has not been made in view of increased business opportunities at airports. Airports sometimes give a long-term lease to a single business concern to conduct all food service or ground transportation activity. The exclusive nature of these contracts prohibits any other business including, by definition, any

minority or women-owned businesses, from participating in that activity in any way. Similarly, rental car companies, which are tenants at virtually every airport, generate significant revenues but seldom have minority or female participation. My amendment would open up the business opportunities to minorities and females and encourage the larger airport tenants, such as rental car companies, to subcontract or establish partnerships with female and minority firms.

133 CONG. REC. H8014 (October 1, 1987) (extended remarks of Rep. Collins).

Rep. Norman Mineta also addressed this point, as follows:

Mr. Chairman, I rise in support of the [Rep. Collins'] amendment * * *. The provision of food and retail services to airline passengers in terminals is an area where opportunities for DBE's should be encouraged.

133 CONG. REC. H8014 (October 1, 1987) (statement of Rep. Mineta).

The history of the program also militates against exclusion of the service concessions. Since its inception in 1980, the forerunner MBE/WBE program included the following service concessions: Car rental agencies, FBO's, telephone services, secretarial services, advertising, lockers, televisions, baggage carts, ground transportation, flight schools, insurance, and hotels and motels. Coverage of these concessions, and, in fact, all concessions by the FAA, was based on section 30 of the Airport and Airway Development Act of 1970, as amended (48 U.S.C. 1730), which stated:

The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this title. The Secretary shall promulgate such rules as he deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

Section 30 now appears as section 520 in the AIA, as amended, but no longer serves as a basis for the concession program, due to the enactment of section 511(a)(17). Instead, section 30 serves to ensure nondiscrimination in employment and in the provision of services and benefits on airports receiving FAA financial assistance. In so doing, section 30 functions as an addition to title VI of the Civil Rights Act by prohibiting such discrimination on the bases of sex and creed, as well as

on the bases of race, color, and national origin. Title VI prohibits discrimination only on the 3 latter bases.

Service concessions mentioned above offer opportunities for DBE's, and elimination of these opportunities effectively would halve the program. The Department considers it significant that section 511(a)(17) does not explicitly eliminate coverage of service concessions. This fact, combined with the legislative and implementation history, leads the Department to believe that coverage of service concessions is warranted.

The Department agrees, however, that FBO's should be excluded from coverage of this final rule. As commenters pointed out, other aeronautical activities are not covered by this final rule and were not covered by the forerunner MBE/WBE rule, even though FBO's were. The Department concurs with FBO commenters that the sponsor assurances in the grant agreements already ensure that there will be no economic discrimination in the provision of aeronautical services on airports. While DBE interest in FBO's has proved minimal during the decade of experience with the MBE/WBE/DBE programs, these assurances protect DBE's that do wish to enter the field, just as they protect DBE's wishing to enter other aeronautical enterprises.

FBO commenters made a number of points which are applicable to concessions generally and have been accepted by the Department. The definition of "material amendment" in § 23.89 of this final rule responds to a comment that the need to consider DBE participation when a lease is amended for any purpose, as required by § 23.103(b) of this final rule, will cause significant disruption in the businesses of prime concessionaires. The new definition clarifies that the need to consider DBE participation will arise only when an amendment changes the basic rights or obligations of the parties to a concession agreement. Routine changes such as changes in name, rates, decor, and signage will not give rise to the need to consider DBE participation. Usually, a "material amendment" will concern a term outside the original scope of the agreement.

In response to the concern of the car rental agencies that the rule requires reorganization of their business structures, it also is not the intent of the Department to force businesses into new structures. The need to change the structure will arise, ordinarily, only when an enterprise seeks an exclusive, long-term lease. In those instances, a business may find it necessary to sublease or to form a joint venture in

order to provide for DBE participation. It is standard for a number of car rental agencies to operate at each airport. The exclusivity issue, therefore, should not arise for car rental agencies.

It is conceivable that an airport sponsor may require new bidders to include provisions for the participation of DBE's. Organizing accordingly, in order to obtain a concession award, would not be as onerous as reorganizing during an ongoing lease term. The same possibility exists for businesses that sell goods instead of services, and the FAA believes that the impact upon the latter should be no greater than upon the former.

Further, the airport sponsor has the option of using a set-aside process, where not prohibited by State or local law. Instead of requiring DBE participation within a non-minority or car rental agency, the airport sponsor can select the set-aside mechanism to achieve DBE participation.

There also arises the question of fundamental fairness. While this cannot be the determining factor, of course, in deciding whether to include service concessions in the coverage of the rule, this point was raised by concessionaires such as DFS. This duty-free concessionaire and other large and small product concessionaires indicate that they believe themselves to be carrying the major responsibility for implementation of the DBE program. They urge airport sponsors to focus on opportunities for DBE service concessions, as well as on those for the sellers of goods.

Other commenters urge expansion of the rule's coverage even beyond product and service concessions. Miami International Airport, for example, strongly recommends inclusion of management contracts. Miami also recommends that credit be given for DBE participation in all aeronautical services and custodial agreements, whether the services are provided to the public, the airlines, the concessionaires, or the airport itself. As previously stated, the Department believes that aeronautical activities do not warrant coverage. Additional forms of agreements require further study and, possibly, legislative action before coverage can be undertaken.

General Mitchell International Airport, Milwaukee, Wisconsin, advocates the inclusion of off-airport suppliers and providers of services to concessionaires. This airport maintains that there is little difference between such suppliers and many of the businesses now deemed concessions, such as the self-service insurance counters, coin-operated TV's, game rooms, coin-

operated lockers, vending machines, and pay telephones. Expansion of the rule to cover off-airport services would go beyond the scope of the NPRM. Further, the Department believes that further study is needed prior to proposing inclusion of suppliers in the DBE program and that it may not be possible to accomplish this without legislative action.

In general, the Department wishes to emphasize that nothing in the rule will require car rental agencies or any other enterprises to change their forms of business (except in the case of exclusive, long-term leases, perhaps). The DBE program is intended to be a flexible, not rigid, one that will result in opportunities for DBE's without undue impact upon non-DBE's. For example, the rule requires an overall goal, not specific contract goals. Thus, there is no requirement for the sponsor to set goals for each car rental business. Moreover, sponsors may elect to seek prime DBE's, rather than to meet goals through subleasing. Finally, the rule provides for a "good faith efforts" waiver, as set forth in § 23.101.

In addition to requesting clarification on the status of aeronautical services and management contracts (provided above), the State of Alaska Department of Transportation and Public Facilities requests clarification regarding the status of the following:

1. In-terminal, non-exclusive, non-bid leases for meet and greet tour group operators;
2. Telephone utilities (not pay telephone concessions) and electrical utility companies; and
3. Non-exclusive permits for cab drivers and tour bus companies.

Section 23.89 of this final rule responds in large measure to Alaska's request for clarification. It is the activity and location of the business that governs, not the nature of the revenue producing agreement with the sponsor. Since businesses operating telephone and electrical utilities and meet and greet tour companies have no permanent office or place of operation on the airport, these are not covered. The coverage of taxi and tour bus operations depends on this same factor. If the firm has a permanent office or place of operation on the airport, it is covered. If the license simply permits pickup and discharge, without an office or place of operation on the airport, then the licensee would not be considered a concessionaire.

3. How should a "Small and Disadvantaged Business Enterprise" Be Defined? (Section 23.89)

Comments—The Department provided 3 alternatives for comment in the NPRM, for defining a "small" disadvantaged business enterprise. Briefly stated, the alternatives are:

a. Retain the current size standards, adjusted periodically for inflation, but require DBE's who have exceeded the size standards and who currently have leases to act as "mentors" to smaller DBE's when their leases are renewed or extended;

b. Adopt new size standards, periodically adjusted for inflation, as shown in appendix B to the NPRM;

c. Retain the present system, using the size standards listed in what should have been designated appendix C to the NPRM (erroneously designated appendix A in the second column on page 11973 of the NPRM), adjusted periodically for inflation.

Thirty commenters, including the AOCI and the AAAE, select Alternative No. 1, the mentor approach, while 2 specifically oppose it. Five favor Alternative No. 2, and 3 oppose it. Only 2 choose Alternative No. 3, with 4 specifically opposing it.

Opponents of the mentor approach raise 3 objections:

(1) The mentor approach would place DBE's in the position of having to negotiate with their minority and female competitors for participation opportunities;

(2) The graduated DBE would be in a controlling position, with respect to the joint venture, partnership, etc.; and

(3) The approach would severely limit the number of new firms that could participate in the program, since there is no time limit after which the graduated DBE would be required to depart.

The Department of Aviation of the City of Chicago favors Alternative No. 2 because it would increase the size standard (Chicago considers the present standards too restrictive); it would be relatively easy to administer; and it has the advantage of familiarity, mirroring as it does the standards for Federally-assisted contracting under section 505(d)(2)(A) of the AAIA, as amended. Chicago comments that the mentor approach would require burdensome monitoring and additional personnel.

Some commenters found none of the alternatives satisfactory. The representative for DFS comments that none of the alternatives appear designed to allow the DBE concessionaire to grow and prosper. This commenter felt that the 3 alternatives were useful only for initial determinations regarding the DBE

status of a firm and recommends a fourth alternative. Where a recipient cannot locate DBE firms that are both qualified and within the size standards, it should be allowed to make a finding that it (a) cannot meet the goal as a result of this problem, or (b) that it should be allowed to select a DBE that is above the usual size standard. This commenter's rationale is as follows:

For example, suppose that concession operations at Airport X may generate a total of \$500 million in annual gross receipts, \$100 million of which are attributable to a large retail goods concession. If one DBE participates as a joint venture partner in that one concession at the twenty percent level, the DBE ordinarily would lose its eligibility in 3 years, but would have neither sufficient experience nor sufficient capital reserves to survive independently. * * * Such a result is fundamentally at odds with the objective of the DBE program.

In the hypothetical example above, it might appear that the non-DBE joint venturer or the prime concessionaire could divide the twenty percent participation among several DBE joint venture partners or sublessees in order to overcome the size limitation. In our view, however, that strategem creates additional and serious difficulties. * * * If adopted, the suggested subdivision might well lead to multiple DBE partners with limited or no active involvement simply because one cannot manage a business with so many 'chiefs.'

In addition, sponsors are under some pressure to establish substantial DBE goals but do not always receive a sufficient number of bids from qualified DBE's or DBE joint ventures to meet those goals. Those same sponsors certify the eligibility of prospective DBE's, and they have a great deal of discretion in reviewing competency, capitalization, and other qualifications. The tension between the goal setting and certification processes creates an incentive for sponsors to take an uncritical view toward competency requirements for DBE's. * * * Moreover, the pressure to relax competency requirements could create situations in which less scrupulous concession operators might be tempted to install wholly unqualified 'fronts' as 'DBE' partners, which is antithetical to the statutory purpose of the DBE program.

One DBE, Benjamin Books, provides comments similar to those of the DFS representative. The president of that company states:

My personal experience and the experience of other DBE firms of my size or larger indicate that \$14 million is not a realistic size standard if the goal is to allow companies to grow to a competitive size in the airport concession industry. Based on my continuing efforts to compete, I feel that a minimum sales volume level of \$50 million is necessary considering that revenues of four of the five major companies who dominate this industry are more than 20 times this number.

The president of this DBE firm recommends that the Secretary conduct a study to determine what it takes to compete for airport concession contracts, including:

1. A review of the qualifications in terms of size and experience required by most airport authorities before a company is even allowed to compete for prime concession contracts.
2. A review of the capital requirements for the development of concession space.
3. A review of required bonds.
4. An analysis of the costs to develop a competitive proposal.
5. An overall analysis of market penetration by current DBE firms.

Mack and Bernstein, Attorneys at Law, as the representative of various small food industry companies, including franchisees, which operate businesses at airports around the country, also disapproves of the graduation approach. This commenter states that in addition to the impact upon the DBE (inability to compete with the very large non-DBE's), the graduation principle also is detrimental to airport efforts at raising revenue. This commenter feels that the artificial monetary ceiling discourages DBE's from sales building, thus depriving airports of substantial revenue.

Mack and Bernstein suggests that if the graduation principle does remain in the final rule, the \$14,000,000 should be adjusted upward to \$30,000,000 over the preceding three fiscal years; gross receipts should be counted only at each airport and not in the DBE's entire business operation; and even if graduated, the DBE should maintain its status for the remainder of the lease and any option to renew. MACI, a DBE transportation consultant, also recommends an adjustment to \$30,000,000, stating that the American Management Association defines a "small" business as "one with an annual income of \$30 million or less and/or 300 employees." This commenter finds the mentor approach most satisfactory, but believes that the mentor should retain its DBE status as long as it maintains or obtains DBE participation.

Cantu Services, Inc., a DBE full-service food company, also selects the mentor approach and comments in detail on the size limitations. Cantu believes the size limit should be raised to 4 or 5 times the \$14,000,000 proposed, since earnings of that size are necessary to compete with the mega-corporations that now dominate the concession field. Airport Concession Consultants recommends a size limit of \$50 to \$75 million.

Cantu suggests that if the \$14,000,000 is retained, the earnings of off-airport

activities of the concessionaire should not be included. Cantu also states that in the food industry, the gross receipts are misleading, stating that it is a labor-intensive industry, and the profit margin is low. Finally, Cantu alleges that many airports give local preference when dealing with small firms, although this seldom is acknowledged. That is not the case with large firms. According to Cantu, the result is that growing DBE firms no longer benefit from local preference, but cannot continue growing to compete on a national scale.

AMAC, the organization representing DBE's, finds Alternative No. 1 most acceptable (mentor approach), but comments that all three alternatives consider a size standard (gross receipts) which is unrealistic in the airport environment. AMAC provided the results of a study that calls for a further study to determine the economically appropriate benchmark size standards for airport concessions.

The Metropolitan Airports Commission of Minneapolis-St. Paul favors combining Alternatives No. 1 and No. 2, providing for the mentor approach and generally increasing the size limit. It also suggests that new DBE's, who are above the size limit but who agree to become mentors, should be allowed in the program.

DOT/FAA Response—Because the issue of a size standard for "small and disadvantaged" businesses was one that drew extensive comment, with a wide range of opinion, the Department has reproduced the different viewpoints in detail herein. On the basis of "votes," it is clear that the mentor approach is viewed most favorably, and the Department's initial reaction was to select this option.

Mentoring, however, would involve joint venturing to a high degree. While joint ventures are appropriate in some circumstances, in others they lead to problems. The ownership and control of the parties may become difficult to distinguish. Even with the best intentions, the larger contributor to the venture may "swallow" the lesser contributor. In some enterprises, the role of the lesser contributor may deteriorate to that of a limited partner. Oversight also is difficult.

In analyzing the comments, the Department concluded that one of the chief appeals of the mentor approach was the stability it offered. Prime concessionaires would have an opportunity to grow, airport sponsors would be faced less often with the need to search for new DBE's to replace those graduating, and small DBE's still would be offered opportunities within the enterprise of the prime concessionaire.

The Department has concluded that stability of these terms does not outweigh the problems. In addition to the problems already stated, the mentor approach could result in the permanent presence of a small number of large DBE's and limited opportunity for the developing DBE's to grow and compete for prime concession contracts. The Department believes that stability can be achieved, instead, by raising the limitation on gross receipts, thereby giving DBE's an opportunity to establish themselves. Accordingly, the Department has reset the limitation to a \$30,000,000 average for the 3 preceding years for all businesses except car rental agencies, pay telephones, and banks. In the case of car rental agencies, the limitation is a \$40,000,000 average for the 3 preceding years, while the limitation for pay telephones is based on the number of employees (1,500). The standard for banks is total assets of not more than \$100,000,000. In determining the gross receipts, those of all affiliates, whether non-profit or for-profit and whether located on the airport or off, are included.

While these limitations are high enough to enable an enterprise to expand to several airports, they are sufficiently low to require graduation after a reasonable time and to prevent total absorption of the market by any one firm.

4. What Should Be the Basis for Setting the DBE Concession Goals? (Section 23.95)

Comments—Commenters are divided fairly evenly on the question of how DBE goals should be set in the concession program. Twelve recommend setting goals on the basis of the total gross receipts earned by the concessions on the airport. Two specifically oppose this method. Eleven would like to see goals set on the basis of the number of concessions on the airport, with one specifically opposing this approach. For convenience, these methods will be referred to as "gross receipts" and "numbers" in the discussion that follows.

Proponents of each method included airports and DBE concessionaires. MWAA, for example, strongly supports using numbers, due to its car rental, parking, and certain other high revenue concessions essential to the airport and the untenable result of having to award all other concession contracts to DBE's in order to achieve 10 percent of the gross receipts.

The Department of Transportation of Pennsylvania (Penn DOT), on the other hand, strongly favors gross receipts, pointing out that DBE's may be relegated

to operating very small concessions such as the shoe shine parlors or vending carts. The comments of the DBE's on the two alternatives were similar to those of the airports. Mark and Bernstein, on behalf of its small food concessionaires, comments similarly, stating that the use of numbers could result in only trifling monetary amounts for DBE's.

The Department of Aviation, City of Houston, points out two difficulties in using gross receipts: (1) High revenue concessions such as hotels also have long terms. To the extent that the original agreements did not include at least 10 percent participation, the need to make up the shortfall will skew the appropriate goals in other areas, and (2) the gross receipts method does not make provision for receipts paid to the airport by firms whose gross receipts are unknown to the airport. In some instances, the revenue earned has little relationship to the gross receipts of the firm, as in the case of revenues earned entirely from land leases.

The Department of Aviation, Chicago, Illinois, favors use of either method at the option of the sponsor, without the need for justification.

Some commenters favor a hybrid, combining both of the proposed methods, or point out that Congress suggested that "a percentage of new concessions (should be) awarded to DBE's * * *." DFS, a duty free concessionaire, states:

By itself, the gross receipts method focuses entirely on overall DBE goals and does not provide incentives to extend the range of opportunities for participation in different concession categories. The number-of-concessions method is too easily manipulated to provide a useful measure of real opportunities for DBE participation. In addition, measurement by "a percentage of the total number of concession agreements operating at the airport during the goal period," 55 FR at 11967, is not what the House Conference Committee had in mind. While the law certainly grants the Secretary discretion to determine how the 10 percent goals should be measured, the Conference suggested "a percentage of new concessions awarded to DBE's * * *." H. Conf. Rep., quoted in NPRM, 55 FR at 11967.

DFS, as well as other commenters, point out that one problem with the gross receipts approach is that it causes airports simply to raise the goals for participation in the large concessions (as gross receipts increase) and does not encourage participation in all types of concessions. As part of its comment, DFS submits a detailed plan for a third alternative. This would include the following:

1. If no bidders for a particular concession are DBE's, the other bidders would have to propose reasonable DBE participation through franchises, subleases, joint ventures, or other means; or, explain why the intrinsic nature of the concession makes DBE participation not feasible. This could be submitted by the sponsor in lieu of Paragraph viii of the sponsor's DBE concession plan (Proposed § 23.92(b)(1)(viii)).

2. If low DBE goals require a submission from the sponsor to the FAA under proposed § 23.94, the sponsor could require holders of large concessions involving little or no DBE participation to assume the burden to explain why efforts to recruit DBE partners have been unsuccessful.

3. If a sponsor determines that DBE participation in a given concession is not practicable, the sponsor might be given limited discretion to exempt that concession (but not necessarily the entire concession category), with concurrence by the FAA, from participation in the program. The exempt concession's revenue then would be excluded from the total gross receipts base from which the overall DBE goal is calculated.

4. Proposed § 23.94 should be revised, as follows: (1) If no overall goal reaches 10 percent or if the annual goal is based on DBE participation in a disproportionately small number of concession categories (even if the goal is more than 10 percent), the plan would not be automatically in compliance and additional information under proposed § 23.94 would be required; and (2) at the sponsor's option, the information provided to the FAA under proposed § 23.94(a) would include a report from the large, non-participating concessions, addressing its efforts and inability to arrange DBE participation; and (3) any potential alteration in contracting procedures, including the opening of a concession previously awarded through negotiation to competitive bidding, should be required to focus first on bidding for large concessions in categories with few or no DBE partnerships, subleases, etc.

The AOCI and the AAAE prefer using the "hybrid" in the NPRM, i.e., using gross receipts except when high-revenue concessions skew the result and call for basing the percentage upon the numbers of concessions. The AOCI and the AAAE, however, believe that the intent of Congress was that the Department count a percentage of new concessions and not existing ones. The AOCI and the AAAE state that airports would have to award all new contracts to DBE's in order to bring the percentage of

total contracts up to at least 10 percent, unless the FAA focuses on new contracts only, and that again would result in a disproportionate number of contracts to DBE's in any contractual cycle.

The Port of Portland comments that to correspond to the statutory requirement, the goal should take into account current DBE participation in concessions that will not be renewed during the goal period, as well as the anticipated DBE participation in concession opportunities to be created or renewed during the goal period.

Portland states that the statute provides no authority for setting goals on the basis of gross receipts. It comments further, however, that if the Department of Transportation can be said to have this authority, there still is no authority to require the provision of a "rationale" by the recipient, should it be decided to set the goals on the number of concessions. Two other commenters concur with Portland's view on the provision of a rationale.

San Francisco International Airport favors basing the goals on a percentage of the square footage available for concessions.

DOT/FAA Response—Commenters are divided fairly evenly on the question of whether to use a percentage of the gross receipts of the covered enterprises or a percentage of the number of concessions on the airport, with both airports and DBE concessionaires on each side. As the foregoing comments indicate, there are divisions within each group, regarding the gross receipts or the concessions that should be used as the basis for the calculation. While many of the suggested approaches were innovative, they also were relatively complex.

The Department believes that the process set forth in the NPRM, with the percentage based upon gross receipts, except where an airport can justify to the FAA that it should be based upon the number of concessions, has the most virtues. It has the advantage of familiarity, is simple, and is sufficiently flexible to accommodate the problems an airport might have with a strict gross receipts approach. In essence, it is a compromise between the positions of the advocates of the gross receipts and the numbers approaches.

Congress provided examples of how goals could be calculated rather than fixed alternatives and gave to the Secretary the discretion to select a workable and fair methodology. The "Joint Explanatory Statement of the Committee of Conference" on the 1987 amendments to the AAIA explained that under Section 511(a)(17), the Secretary

would have the discretion to determine the basis on which the 10 percent DBE requirement would be measured.

The Department wishes to make clear that goal setting does not require the abrogation of existing concession leases. This was not the cause under the MBE/WBE program, and it is not the case now. Both long term and short term goals are set in accordance with available opportunities; that is, in accordance with opportunities that can be created, which arise, or which should be considered when there is a material amendment to the lease.

Further, in appropriate circumstances, the sponsor may request approval for a concession plan in which none of the overall annual DBE goals is 10 percent or more. Section 23.101(a)(4) allows the sponsor to explain why the nature of a particular concession makes DBE participation not economically feasible. Such explanation may serve as one basis for submitting a plan in which none of the goals is 10 percent or more.

It should be noted, however, that the non-abrogation of leases applies only to those that are in compliance with the regulation. If a sponsor awards an exclusive, long-term lease to a concessionaire, without requiring adequate DBE participation for the term of the lease and without FAA approval, that lease becomes subject to amendment to include DBE participation, despite the fact that it "exists" at the time noncompliance is discovered. Refusal to cure the problem could result in action to abrogate.

The Department also wishes to make clear that the methodology does not deprive the sponsor of credit for existing DBE's on the airport, when the sponsor determines what its goal should be. If the long-term goal of a sponsor is to achieve a 25 percent DBE representation on the airport, and it already has 10 percent, then the sponsor already has achieved that portion of its goal. In achieving the 10 percent, the sponsor has met the floor set in section 511(a)(17) of the AAIA, as amended. The sponsor, however, is not prevented from setting higher goals.

While the Department received no comments on the NPRM regarding goals higher than 10 percent, some sponsors recently have asked whether the Supreme Court's decision in *City of Richmond v. J.A. Croson Company* requires sponsors to make local or State findings of discrimination before setting goals above 10 percent. The Department believes that the language of section 511(a)(17), which calls for goals of "at least 10 percent of all businesses at the airport * * *," responds to that

question. The term "at least" is clear on its face, denoting a floor rather than a cap for the goal-setting.

The Department's position is in accord with that it took earlier in regard to section 505(d)(1) of the AAIA, as amended. This section, dealing with DBE contracting rather than leasing, calls for goals of "not less than 10 percent * * *." Like the term "at least," the words "not less than" indicate that the 10 percent requirement is intended as a minimum, not a maximum.

5. What Should the Certification Requirements Be? (Section 23.95)

Comments—Most of the comments on certification touch upon three questions:

- (1) Whether certifications should be performed by the airport owner/operator;
- (2) Whether airport owners/operators should perform on-site visits as part of the certification procedure; and
- (3) Whether franchises should be included in the program.

In addition, these questions were raised:

- (1) Should the certification period be lengthened to 2 years, instead of the present 1-year period?
- (2) Should certification requirements for small airports be different than for large?

Seven commenters support retention of the certification process by airport owners/operators, while 8 oppose it. Two commenters support on-site visits, while 4 oppose them. Nineteen commenters favor inclusion of franchises as business opportunities for DBE's, and only 1 commenter opposes inclusion.

A number of small airports such as Palm Springs Regional Airport, Central Wisconsin Airport, and Yakima Air Terminal point out that small airports find the paperwork related to certification extremely burdensome and sometimes physically impossible, given their resources. Comments also were received from large recipients, such as MWAA, which favor reducing the burden. MWAA recommends increasing the certification period from 1 to 2 years, with a provision for interim certifications if deemed necessary by airport staff.

Dallas/Ft. Worth, MWAA, and AMAC support the proposal to eliminate mandatory on-site visits and to allow the airport to make visits only when necessary to validate information received through other means.

Penn DOT, on the other hand, strongly objects to the elimination of mandatory on-site visits, as well as to the elimination of the requirement for a listing of equipment. Penn DOT has

found both requirements useful in determining the eligibility of DBE's. The State of Oregon also supports mandatory on-site visits, which at present are part of a centralized certification process established by the State.

Supporters of franchises included DBE's such as Benjamin Books; airport operators and their representatives (MWAA, Penn DOT, the AOCL, the AAEE, Dallas/Ft. Worth International Airport, Minneapolis-St. Paul Metropolitan Airports Commission, Department of Aviation, City of Houston, Texas); Mack and Bernstein, representatives of small food concessions; individual food concessions such as Snack n' Run (SJ&J Enterprises, Inc.); and AMAC, representing DBE's. A number of non-DBE's, such as DFS, support the inclusion of franchises indirectly by advocating that all retail businesses at an airport be made part of the program.

In general, these commenters feel that the franchise is a modern and legitimate form of enterprise and note that more and more airports are adopting the use of brand name concepts. These supporters of franchises believe that it would be inappropriate to eliminate what is becoming a large segment of airport opportunities.

DOT/FAA Response—Commenters were divided almost evenly on the question of certification, with small airports especially vocal regarding the burdens of certification. The paperwork requirements in regard to certification, however, relate only to primary airports. Airports with enplanements below the number needed to qualify for primary status do not have to set goals and do not have to certify DBE's. Their only requirements are to make suitable outreach efforts to include DBE's in the concession activity and to practice nondiscrimination.

The DBE's on small airports that are primary airports must be certified somewhere, however, and the recipients do have this responsibility. Small airports tend to have few concessions, so this responsibility should not be onerous. Further, many concessionaires are loathe to locate on small airports unless they are guaranteed exclusivity and a long lease to amortize their investments. In view of this, the initial certification process occurs less frequently than on large airports, and annual recertification is relatively simple due to the small numbers involved.

Under the MBE/WBE regulation, all airports were required to accept SBA certifications without question, except where the size of the DBE was an issue.

Given the gross receipts elevation, even this question should be rare. Sponsors shall continue to accept an SBA certification unless a DBE's Schedule A certification submission indicates that it has exceeded the applicable size standard of this final rule. This also serves to reduce the certification workload.

Finally, this rule reduces the certification burden considerably, by requiring that on-site visits be made only where it is necessary to verify information received through documents supplied by the DBE.

Franchises received virtually universal support, with only 1 commenter adverse, and the Department shares the position supporting franchises.

As a result, the final rule departs from the position taken recently by the SBA. On August 21, 1989, the SBA issued a final rule, 13 CFR part 124, in which it reversed its position on the eligibility of franchisees under its Minority Small Business and Capital Ownership Development Program authorized by sections 7(j)(10) and 8(a) of the Small Business Act (15 U.S.C. sections 636(j)(10) and 637(a)). In the preamble, the SBA stated:

SBA * * * has decided to retain the prohibition (against franchisees) because of concern that the franchisor-franchisee arrangement, by its nature, gives the franchisor more control over the management, daily business operations, and business development of the franchisee than is appropriate in light of the business development goals of the 8(a) program and the statutory requirement of control by disadvantaged individuals. 54 FR 34692 at 34697, August 21, 1989.

Accordingly, 13 CFR 124.109(b) reads:

Franchisees. Except for those admitted to the 8(a) program prior to the effective date of these regulations, franchisees are ineligible to participate in the section 8(a) program.

While the FAA is bound, under section 505(d)(2)(B) of the AAIA, to the SBA's definition of "socially and economically disadvantaged individuals," it is not bound by law to other sections of the Small Business Act or the SBA's implementing regulations. While the Department believes there is merit in patterning the grant program after the SBA's direct contracting program to the extent possible, it also recognizes that the airport concession world has unique characteristics which may call for different approaches.

The Department believes that franchise agreements must be read carefully to screen out arrangements that are nothing more than employment arrangements, limited partnerships, or

other forms of agreements that do not result in the required ownership and control by DBE's. FAA review of franchise agreements to date, however, have shown that the *bona fide* franchises call for considerable investment on the part of the DBE, opportunity for profit as well as the risk of failure, and in some cases, even the right to devise the DBE interest to a designated heir. The final rule includes franchises, therefore, as an acceptable form of participation in the DBE program.

6. What Should Be the Obligations of Concessionaires and Competitors in Regard to Setting and Meeting Goals? (Section 23.103)

Comments—Five commenters dealt with the question of whether an airport may impose requirements for DBE participation upon competitors for concession agreements in order to meet the goals of the airport. Two commenters favor imposing such requirements, while three provide adverse comments on various aspects of such a practice.

Hayes Leasing Co., Inc., an Avis licensee, objects to the imposition of any requirements that would call for a set-aside or force a firm to alter its form of doing business or of ownership or of conducting business solely for the purpose of achieving DBE participation.

Alaska International Airport System, while not objecting to the imposition of requirements upon concessionaires *per se*, does object to consideration of DBE participation "when the agreements are amended for any purpose." Alaska points out that when strictly read, this could mean "a contract amendment to change the premises description after construction or to change a due date or room number" or something else of a trivial nature. Concession Air provides a similar comment, recommending that reevaluations of DBE participation in a prime contract or lease should be made only when there is a "material" amendment. Concession Air suggests this should be defined as a substantial change in the rights or obligations between the sponsor and the concessionaire, such as an extension of term when none was originally provided for or a substantial increase in the scope of the concession rights. This commenter points out that otherwise, sponsors and concessionaires would be subjected to economic uncertainty and disruption of services for every routine amendment. The above comments are in accord with those made by the FBO's.

The law firm of Mack and Bernstein, writing in behalf of small food concessions, favors the proposal.

DOT/FAA Response—As previously discussed, it is not the aim of the FAA to force a firm to alter its form of doing business, unless an exclusive, long-term lease is being considered or has resulted from noncompliance with the regulation, and DBE participation cannot be achieved by any other means in that situation. Further, in really unusual situations, the difficulties of making a business alter its form of doing business might serve as the basis for justifying a goal of less than 10 percent.

In regard to the consideration of DBE participation only when there is a "material" amendment, the FAA concurs with this recommendation, as previously discussed.

7. Should Privately-Owned Terminals Have Responsibility for DBE Participation? (Section 23.105)

Comments—Ten commenters favor this proposal, which would put a current practice into regulatory form. The AOCI and the AAAE raises the point that airport owners/operators may not have authority to require the owners of private terminals with existing leases to assume responsibility for DBE participation. Of the 34 individual airports that commented, however, 2 specifically favor DBE responsibilities for the owners of private terminals, and the rest of the commenters have no comment on this issue.

DOT/FAA Response—The final rule requires that the private owners of terminals carry out the responsibilities that would have been those of the airport owner/operator in a publicly-owned terminal. It has been the FAA's experience that most local or State governments include clauses in leases or other agreements which call for the other party to the agreement to follow relevant Federal laws and regulations. Further, it also has been the FAA's experience that airport sponsors usually continue to play some role in the activities of privately-owned terminals. Often, the airport sponsor is involved in determining the types of concessions that will be needed in the privately-owned terminal and receives a share of the gross receipts or other forms of revenue. In all cases, the airport sponsor retains title to the land, and in many cases, the terminal becomes airport property upon termination of the lease of the land by the private owner. At that point, both the land and the terminal may be leased back to an airline or other private entity.

This position is supported by section 511(a)(17). It states:

(17) the airport owner or operator will take such action as may be necessary to ensure that to the maximum extent practicable, at

least 10 percent of all businesses at the airport which sell food, beverages, printed materials, or other consumer products to the public are small business concerns (as defined by the Secretary by regulation) owned and controlled by socially and economically disadvantaged individuals (as defined under section 505(d)(2)(B))." (Emphasis added).

The statute requires the airport owner or operator to set goals for *all* businesses. No exclusion is made for businesses in privately-financed or -owned terminals. As in the case of other obligations placed upon lessees, the airport owner can incorporate the DBE requirements in the leasing agreements.

Where the private owners of terminals are not already following the DBE regulation, the FAA anticipates no immovable barriers, therefore, to bringing them into compliance. Further, this would not involve undue burdens. As in the case of the airport owner/operator, the private operator would not be asked to disturb existing concession leases (except those resulting from noncompliance with the regulation, as previously discussed) but would be required to set goals for upcoming opportunities and to consider opportunities as leases are amended, renegotiated, etc.

8. What Requirements Should Be Imposed in Regard to Exclusive, Long-Term Leases? (Section 23.107)

Comments—In the NPRM, the Department proposed to impose direct requirements concerning exclusive, long-term leases upon the airport sponsor instead of requiring an exemption from the prohibition against such leases in § 23.43(d)(1) of 49 CFR part 23. In the preamble to the NPRM, the Department also discussed the structure and contents of the oversight mechanism contemplated by the FAA and asked specifically whether this mechanism should appear within the final rule or in guidance. Seven commenters favor publication in the final rule, while 2 consider it satisfactory to receive guidance documents.

In general, 14 commenters favor prohibitions against exclusive, long-term leases. Thirty-one other commenters criticize one or more aspects of proposed § 23.99.

MWAA comments that airports should not be required to submit either the draft or final leases and subleases to the FAA. MWAA believes that airports have the capacity to ensure meaningful DBE participation and that the submission of papers to the FAA results in unnecessary delay. Minneapolis-St.

Paul points out that this is especially true when a concession fails and must be replaced quickly.

One commenter, in contrast, believes that the FAA should increase its oversight of DBE participation in exclusive, long-term leases to ensure that DBE sublessees, joint venturers, partners, etc., play meaningful roles in the business. This commenter advocates requiring all DBE's to work a full 40-hour week in the business. This commenter also advocates that the participation be in the nature a 2-year training period, after which the DBE would be required to establish an independent business or operate as a prime. This individual also favors limiting the DBE to involvement with only one prime at a time to ensure that the benefits of the program do not go solely to a select few.

The law firm of Patton, Boggs, and Blow, representing DFS, states that some of the oversight criteria, specifically the one relating to the DBE's financial return, should be revised. DFS recommends focusing solely on gross receipts, since the net profits reflect a number of subtle factors relating to the firm's bookkeeping practices and management efficiency and are virtually meaningless.

Dallas/Ft. Worth, the Port of Portland, and the AOCI comment that paragraph (b) of § 23.99 is confusing, since it references "conditions set forth in paragraph (b)(1) through (b)(3) of this section under the definition of a 'small business concern' in § 23.89, instead of actually including the conditions of (b)(1) through (b)(3) in § 23.99."

Concession Air, a non-DBE concessionaire, believes net profits should not be required to be disclosed, since this information ordinarily is treated as confidential and proprietary.

Palm Springs Regional Airport recommends that the period for a long-term lease term be changed to more than 5 years rather than 5 years or more, since it is cumbersome to keep leases within the "short" term by writing leases for "four years, three hundred sixty-four days."

DOT/FAS Response—A number of the 31 commenters who provided adverse comments on various aspects of the prohibition against exclusive, long-term leases appear to be under the impression that all long-term leases of five years or more are prohibited. This, of course, was not the case under the MBE/WBE regulation, and it is not the case in this final DBE concession rule. Only long-term, exclusive leases are affected, and even these are not prohibited as long as arrangements are made for adequate DBE participation throughout the lease.

In regard to requiring information on net profits, the FAA concurs that information on the gross receipts of the prime concessionaire may be more useful than information on net profits. In fact, it has not been the practice of the FAA to inquire about the net profits of the prime concessionaire in the past. The FAA has inquired, however, as to the potential net profits for a DBE sublessee to safeguard the interests of the DBE. Gross receipts in certain businesses, such as labor intensive ones, may provide a misleading picture of the potential for the success of the DBE. While the FAA does not anticipate that it will be necessary to inquire about the net profits of the prime concessionaire, it may look to the prime for an educated estimate on the net profits the DBE may expect, in light of business conditions and sound practices.

The Department concurs that a "long-term" lease should be defined as one that is "more than 5 years in length," rather than as one that is 5 years or more.

The Department also concurs that the oversight mechanism should be part of the regulation, rather than issued as a guidance document, and has included the mechanism in this final rule.

In regard to lack of clarity in the NPRM, regarding the conditions that must be met by the sponsor when awarding an exclusive, long-term lease, the Department concurs that this was a problem, and § 23.107 of this final rule clearly states the requirements.

The Department does not concur, however, that submission of the leases, subleases, and other relevant documents to the FAA for its approval is unduly burdensome. The final rule represents a significant reduction in review levels and an increase in specificity on the requirements, which together should help expedite the process. Exclusive, long-term leases and the participation of DBE's continue to present fairly complex and novel situations, however, and the FAA believes that review of the leases and other relevant documents is necessary.

In order to describe more clearly the obligations of airport sponsors, § 23.95, "Elements of DBE Concession Plan," now contains several paragraphs that stood alone in the NPRM. These include paragraph (e), "Certification procedures;" paragraph (f), "Certification standards;" and paragraph (g), "Good faith efforts." In addition, the sections throughout this final rule have been renumbered to correct errors that were made in the NPRM.

Economic Assessment

This final rule makes only minor substantive changes to the requirements currently applicable under part 23 to the concession programs of recipients of FAA financial assistance. In developing this final rule, as previously stated herein, the Department has taken into account numerous questions and issues raised about the concession program since 1980, when the MBE/WBE concession program was established through issuance of part 23. In addition, this final rule formalizes many of the practices and procedures established during that time through a Departmental Notice of Policy and various guidance memoranda.

The final rule is not expected to change in any significant degree the concession programs already operated by recipients of FAA financial assistance, but would result in greater consistency of implementation by the recipients. For this reason, it has been determined that the expected economic impact of the proposed amendment is so minimal that a full Regulatory Evaluation is not warranted.

Trade Impact

The activities associated with this concession program will occur in the United States and will not involve an increase or decrease in the purchase of foreign goods or services. The amendment will have no impact, therefore, on trade opportunities for United States firms doing business overseas or on foreign firms doing business in the United States.

Regulatory Flexibility Determination

Under this regulation, nonprimary airports (commercial service airports that are not primary airports, general aviation, or reliever airports) must take appropriate outreach steps to encourage available DBE's to participate as concessionaires whenever there is a concession opportunity. They no longer are required to set goals for concession (leasing) activity. This will relieve approximately 600 to 700 sponsors of this burden. The impact upon small recipient airports will be negligible, however, since such recipients have a limited number of concessions, many of which have been given long-term leases to attract them to the airports. Goal-setting was minimal due to the minimal number of opportunities.

The impact upon non-DBE small businesses similarly will be negligible. Under the AIA, the required goals are reasonable, and the recipient airports are afforded considerable flexibility in regard to how and when the goals are

attained. The majority of the opportunities still will be available to non-DBE's. While there will be a positive economic impact upon small and disadvantaged businesses, the modest nature of the goals does not result in a significant economic impact.

Since there will be only negligible cost associated with this rule for a small recipient of FAA financial assistance and only insignificant impacts upon other small entities affected, the Department has determined that this final rule will not have a significant economic impact, positive or negative, on a substantial number of small entities.

Federalism Implications

This final rule will not have substantial, direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, above and beyond the effects which result from the MBE/WBE concession program, parts of which already are being phased out and which will be replaced by the DBE concession program. Thus, in accordance with Executive Order 12612, it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the new record keeping and reporting provisions in this proposal have been submitted for approval to the Office of Management and Budget (OMB). Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building, room 3001, Washington, DC 20503; Attention: FAA Desk Officer (Telephone: (202) 395-7313). A copy should be submitted to the FAA Docket.

Conclusion

For the reasons discussed in the preamble and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the Department has determined that this final rule is not major under Executive Order 12291 and certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This rule is considered significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February

26, 1979). This rule will make only minor substantive changes to the requirements currently applicable under part 23 to the concession programs of recipients of FAA financial assistance. For this reason, the Department has determined that the expected impact of this final rule is so minimal that it does not warrant a full regulatory evaluation.

List of Subjects in 49 CFR Part 23

Administrative practice and procedure, Disadvantaged business enterprise, Government contracts, Mass transportation, Minority business, and Reporting and recordkeeping requirements.

Issued this 21st day of April, 1992, at Washington, DC.

Andrew H. Card, Jr.,
Secretary of Transportation.

Final rule

Accordingly, the DOT amends 49 CFR part 23, as follows:

1. The authority citation for part 23 is revised to read as follows:

Authority: Sec. 905 of the Regulatory Revitalization and Regulatory Reform Act of 1978 (45 U.S.C. 803); sec. 520 of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. APP. 2219); sec. 19 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1615); sec. 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (49 U.S.C. App. 1601 note); sec. 505(d) and sec. 511(a)(17) of the Airport and Airway Improvement Act, as amended by the Airport and Airway Safety and Capacity Expansion Act of 1987 (Pub. L. 100-223); Title 23 of the U.S. Code (relating to highways and traffic safety, particularly sec. 324 thereof); Title VI of the Civil Rights Act (42 U.S.C. 2000d *et seq.*); Executive Order 12265; Executive Order 12138.

2. Subpart F is added to read as follows:

Subpart F—Implementation of Section 511(a)(17) of the Airport and Airway Improvement Act of 1982, as Amended

- Sec.
- 23.89 Definitions.
- 23.91 Applicability.
- 23.93 Requirements for Airport Sponsors.
- 23.95 Elements of Disadvantaged Business Enterprise (DBE) concession plan.
- 23.97 Appeals of certification denials.
- 23.99 Rationale for basing overall goals on the number of concession agreements.
- 23.101 Information required when none of the overall annual goals is 10 percent or more.
- 23.103 Obligations of concessionaires and competitors.
- 23.105 Privately-owned terminal buildings.
- 23.107 Prohibition on long-term, exclusive concession agreements.
- 23.109 Compliance procedures.
- 23.111 Effect on Section 23.43(d).

Appendix A—Size Standards for Airport Concessionaires

Subpart F—Implementation of Section 511(a)(17) of the Airport and Airway Improvement Act of 1982, as Amended

§ 23.89 Definitions.

Affiliation has the same meaning the term has in regulations of the Small Business Administration, 13 CFR part 121. Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly

(a) One concern controls or has the power to control the other, or

(b) A third party or parties controls or has the power to control both, or

(c) An "identity of interest" between or among parties exists such that affiliation may be found.

In determining whether affiliation exists, consideration shall be given to all appropriate factors, including common ownership, common management, and contractual relationships.

Concession means a for-profit business enterprise, located on an airport subject to this subpart, that is engaged in the sale of consumer goods or services to the public under an agreement with the sponsor, another concessionaire, or the owner of a terminal, if other than the sponsor. Businesses which conduct an aeronautical activity are not considered concessionaires for purposes of this subpart. Aeronautical activities include scheduled and nonscheduled air carriers, air taxis, air charters, and air couriers, in their normal passenger or freight-carrying capacities; fixed base operators, flight schools; and sky-diving, parachute-jumping, flying guide services, and helicopter or other air tours.

(a) Appendix A to this subpart contains a listing of the types of businesses that are frequently operated as concessions.

(b) Examples of entities that do not meet the definition of a concession include suppliers, flight kitchens and in-flight caterers servicing air carriers, government agencies, industrial plants, farm leases, individuals leasing hangar space, custodial and security contracts, individual taxis with permits, telephone and electric utilities, skycap services under contract with an air carrier, and management contracts.

(c) Concessions may be operated under the following types of agreements:

- (1) Leases.
- (2) Subleases.
- (3) Permits.
- (4) Contracts.

(5) Other instruments or arrangements.

Concessionaire means one who operates a concession.

Disadvantaged business shall have the same meaning as set forth in § 23.61 of subpart D of this part, except it shall be a small business concern, as defined in this subpart, not as defined in § 23.61.

Material amendment means a substantial change to the basic rights or obligations of the parties to a concession agreement. Examples of material amendments include an extension to the term not provided for in the original agreement or a substantial increase in the scope, of the concession privilege. Examples of nonmaterial amendments include a change in the name of the concessionaire or a change to the payment due dates.

Primary airport means a commercial service airport which is determined by the Secretary to have more than 10,000 passengers enplaned annually.

Small business concern means a firm, including all its domestic and foreign affiliates, that qualifies under the applicable size standard set forth in appendix A to this subpart. In making a size determination, all affiliates, regardless of whether organized for profit, must be included. A firm qualifying under this definition that exceeds the size standard after entering a concession agreement, but that otherwise remains eligible, may continue to be counted as DBE participation until the current agreement, including the exercise of options, expires.

(a) The Secretary may periodically adjust the size standards in appendix A to this subpart for inflation.

(b) A firm that was certified as a minority/woman/or disadvantaged business enterprise (MBE/WBE/DBE) prior to the effective date of this subpart, pursuant to a requirement in § 23.43(d) or FAA guidance implementing section 511(a)(17) of the Airport and Airway Improvement Act of 1982, as amended, that has exceeded the size standard, may be counted as DBE participation until the current agreement, including the exercise of options, expires, provided that the firm remains otherwise eligible.

Socially and economically disadvantaged individuals shall have the same meaning as set forth in § 23.61 of subpart D of this part.

Sponsor means the recipient of an FAA grant.

§ 23.91 Applicability.

This subpart applies to any sponsor that has received a grant for airport development authorized by the Airport

and Airway Improvement Act of 1982, as amended by the Airport and Airway Safety and Capacity Expansion Act of 1987.

23.93 Requirements for airport sponsors.

(a) *General requirements.* (1) Each sponsor shall abide by the nondiscrimination requirements of § 23.7 with respect to the award and performance of any concession agreement covered by this subpart.

(2) Each sponsor shall take all necessary and reasonable steps to foster participation by DBE's in its airport concession activities.

(3) The following statements shall be included in all concession agreements executed between the sponsor and any firm after the effective date of this subpart.

(i) "This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR part 23, subpart F. The concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR part 23, subpart F.

(ii) "The concessionaire agrees to include the above statements in any subsequent concession agreements that it enters and cause those businesses to similarly include the statements in further agreements."

(b) *Additional requirements for primary airports.* (1) Sponsors of primary airports shall implement a disadvantaged business enterprise (DBE) concession plan containing the elements listed in § 23.95. Sponsors of more than one primary airport shall implement a separate plan for each location that has received assistance for airport development. The plan shall be submitted to the appropriate FAA Regional Office for approval.

(2) The sponsor shall review and update the plan at least annually. The updated plan shall include any information required under § 23.95 that was not available to the sponsor when the previous submission was made. Updated plans shall be submitted to the appropriate FAA Regional Office for approval.

(c) *Additional requirements for nonprimary airports.* Sponsors of commercial service airports (except primary), general aviation and reliever airports are not required to implement a DBE concession plan but shall take appropriate outreach steps to encourage available DBE's to participate as concessionaires whenever there is a concession opportunity.

§ 23.95 Elements of Disadvantaged Business Enterprise (DBE) concession plan.

(a) *Overall annual DBE goals.* (1) The sponsor shall establish an overall goal for the participation of DBE's in concessions for each 12-month period covered by the plan. The goals shall be based on the factors listed in § 23.45(g)(5).

(2) Sponsors shall calculate the overall DBE goal as a percentage of one of the following bases:

(i) The estimated gross receipts that will be earned by all concessions operating at the airport during the goal period. (Where the terms of a concession agreement do not provide for the sponsor to know the gross receipts, the sponsor shall use the net payment to the airport for such agreements and combine these figures with the estimated gross receipts from other agreements, for purposes of making this calculation. The plan shall indicate which concession agreements do not provide for the sponsor to know the gross receipts.)

(ii) The total number of concession agreements operating at the airport during the goal period.

(3) The plan shall state which base the sponsor proposes to use for calculating the overall goals. Sponsors proposing to use the base described in paragraph (a)(2)(ii) of this section shall submit a rationale as required by § 23.99.

(4) Sponsors who will employ the procedures of paragraph (a)(2)(i) of this section shall exclude from the overall goal any portion of a firm's estimated gross receipts that will not be generated from a concession activity.

Example. A firm operates a restaurant in the airport terminal which services the travelling public and under the same lease agreement, provides in-flight catering service to the air carriers. The projected gross receipts from the restaurant are included in the overall goal calculation, while the gross receipts to be earned by the in-flight catering service are excluded.

(5) Sponsors who will employ the procedures of paragraph (a)(2)(i) of this section shall use the net payment to the airport for banks and banking services, including automated teller machines (ATM) and foreign currency exchanges.

(6) To the extent practicable, sponsors shall seek to obtain DBE participation in all types of concession activities and not concentrate participation in one category or a few categories to the exclusion of others.

(7) Airport sponsors may establish an overall annual goal exceeding 10 percent.

(b) *Goal methodology.* (1) The plan shall contain a description of the

methodology used in establishing each of the overall DBE goals. The methodology shall include information on the concessions that will operate at the airport during the period covered by the plan and the potential for DBE participation. For each concession agreement, the sponsor shall provide the following information, together with an additional information requested by the Regional Civil Rights Officer:

- (i) Name of firm.
- (ii) Type of business (e.g. bookstore, car rental, baggage carts).
- (iii) Beginning and expiration dates of agreement, including options to renew.
- (iv) For new agreements, method of solicitation proposed by sponsor (e.g. request for proposals, invitation for bids).

(v) Dates that material amendments will be made to the agreement (if known).

(vi) Estimated gross receipts for each goal period established in the plan.

(vii) Identification of those concessionaires that have been certified under this subpart as DBE's.

(viii) An indication of those concessions having potential for participation by DBE's.

(2) The plan shall include a narrative description of the types of efforts the sponsor intends to make, in accordance with paragraph (h) of this section, to achieve the overall annual goals.

(3) Sponsors who will include a DBE contract goal or other requirements in solicitations for concession agreements shall state those requirements in the plan.

(4) If none of the overall goals set under paragraph (a)(2)(i) or (a)(2)(ii) of this section is 10 percent or more, the sponsor shall submit the information and follow the procedures outlined in § 23.101.

(c) *DBE set-asides.* (1) Where not prohibited by state or local law and determined by the sponsor to be necessary to meet DBE goals, procedures to implement DBE set-asides shall be established. The DBE plan shall specify the concessions to be set-aside.

(2) If a state or local law prohibits the use of set-asides in the award of concessions, a citation of the appropriate authority shall be included in the plan.

(d) *Accomplishments in achieving DBE goals.* The plan shall contain an analysis of the accomplishments made by the sponsor toward achieving the previous year's goal. The plan shall show the effect of those results on the overall level of DBE participation in the airport's concessions.

(e) *Explanation for not achieving a goal.* (1) If the analysis required under

paragraph (d) of this section indicates that the sponsor failed to meet the previous year's overall goal, the plan shall include a statement of the reasons demonstrating why failure to meet the goal was beyond the sponsor's control.

(2) If the FAA determines that the reasons given by the sponsor are not sufficient justification, or if the sponsor fails to state any reasons, the FAA may require the sponsor to implement appropriate remedial measures. Such measures may include an adjustment to the overall goals of the concession plan.

(f) *Certification procedures.* (1) The certification procedures set forth in § 23.51 are applicable to this subpart. Sponsors may count toward their overall goals only those firms that have been certified in accordance with the procedures of that section.

(2) Except as provided in § 23.51(c), each business, including the DBE partner in a joint venture, wishing to participate as a DBE under this subpart in a concession shall complete and submit Schedule A. Each entity wishing to participate as a joint venture DBE under this subpart shall in addition complete and submit Schedule B. (Schedules A and B are reproduced at the end of this part.)

(3) Sponsors shall take at least the following steps in determining whether a firm is an eligible DBE:

(i) Obtain the resumes or work histories of the principal owners of the firm and personally interview these individuals;

(ii) Analyze the ownership of stock in the firm, if it is a corporation;

(iii) Analyze the bonding and financial capacity of the firm;

(iv) Determine the work history of the firm, including any concession contracts it may have received;

(v) Obtain or compile a list of the licenses of the firm and its key personnel to perform the concession contracts it wishes to receive; and

(vi) Obtain a statement from the firm of the type of concession it prefers to operate.

(4) Prior to making a certification determination, the sponsor shall perform an on-site visit to the offices of the firm and to any of its facilities that may be necessary to validate the certification information obtained from the firm.

(5) The challenge procedure set forth in § 23.69 are applicable to this subpart.

(g) *Certification standards.* (1) Sponsors shall use the same standards for ownership and control as contained in § 23.53 in determining whether a firm may be certified as a DBE.

(2) Businesses operating under the following structures may be eligible for

certification as DBE's under this subpart:

(i) Sole proprietorships.

(ii) Corporations.

(iii) Partnerships.

(iv) Other structures that provide for ownership and control by the socially and economically disadvantaged owners.

(3) A business operating under a franchise (or license) agreement may be certified if it meets the standards in this section and the franchisor is not affiliated with the franchisee.

In determining whether affiliation, as defined in § 23.89, exists, the restraints relating to standardized quality, advertising, accounting format, and other provisions imposed on a franchisee by its franchise agreement generally shall not be considered, provided that the franchisee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Alternatively, even though a franchisee may not be controlled by the franchisor by virtue of such provisions in the franchise agreement, control, and, thus, affiliation could arise through other means, such as common management or excessive restrictions upon the sale of the franchise interest.

(4) Joint ventures described in § 23.53(d) are eligible for certification as DBE's under this subpart.

(h) Businesses operating under the following arrangements are not eligible for certification as DBE's under this subpart:

(1) Limited partnerships, in which a non-DBE is the general partner.

(2) Other arrangements that do not provide for ownership and control by the socially and economically disadvantaged owners.

(i) *Good faith efforts.* The sponsor shall make good faith efforts to achieve the overall goals of the approved plan. The efforts shall include:

(1) Locating and identifying DBE's who may be interested in participating as concessionaires;

(2) Notifying DBE's and other organizations of concession opportunities and encouraging them to compete, when appropriate;

(3) Informing competitors for concession opportunities of any DBE requirements during pre-solicitation meetings;

(4) Providing information concerning the availability of DBE firms to competitors to assist them in meeting DBE requirements; and

(5) When practical, structuring contracting activities so as to encourage and facilitate the participation of DBE's.

§ 23.97 Appeals of certification denials.

The procedures concerning the appeal of a denial of certification set forth in § 23.55 are applicable to this subpart.

§ 23.99 Rationale for basing overall goals on the number of concession agreements.

(a) A sponsor who proposes to calculate the overall DBE goals as a percentage of the number of concession agreements shall submit information with the DBE plan to demonstrate that one of the following applies to the airport:

(1) In order to attain an overall DBE goal of 10 percent on the basis of gross receipts, the airport would need to award a disproportionate percentage of the opportunities to DBE's. This rationale may address a time period that extends beyond that covered by the current plan; or

(2) Other circumstances at the airport exist that do not make it feasible to use gross receipts as the basis for calculating the goals.

(b) If the FAA approves of the request, the sponsor shall not be required to provide further justification during subsequent years of the plan, unless requested by the FAA to do so.

(c) If the FAA determines that the information submitted by the sponsor fails to justify the requested goal-setting procedure, the sponsor shall resubmit the plan. The goals in the revised plan shall be calculated as a percentage of gross receipts, as outlined in paragraph (a)(2)(i) of § 23.95.

§ 23.101 Information required when none of the overall annual goals is 10 percent or more.

(a) A sponsor requesting approval for a concession plan in which none of the overall annual DBE goals is 10 percent or more shall provide information on the following points:

(1) The sponsor's efforts to locate DBE's in the relevant geographic area that are capable of operating the concessions that will become available;

(2) The sponsor's efforts to notify DBE's of concession opportunities and to encourage them to compete;

(3) Any consideration given by the sponsor, when practical, to structuring contracting procedures so as to encourage and facilitate DBE participation. For example, a sponsor may consider using competitive means to award a concession that would otherwise be renegotiated without competition.

(4) If appropriate, an explanation why the nature of a particular concession makes DBE participation through a sublease, joint venture, partnership, or

other arrangement not economically feasible.

(b) The FAA regional civil rights officer approves a plan which does not contain any overall goals of at least 10 percent if he or she determines that based on the information submitted by the sponsor under paragraph (a) of this section and any other available information;

(1) The sponsor is making all appropriate efforts to increase DBE participation in its concessions to a level of 10 percent; and

(2) Despite the sponsor's efforts, the goals submitted by the sponsor represent the reasonable expectation for DBE participation, given the availability of DBE's.

§ 23.103 Obligations of concessionaires and competitors.

(a) Sponsors may impose requirements on competitors for concession agreements as a means of achieving the DBE goals or a portion of the goals established under paragraph (a) of § 23.91 of this subpart, provided that the DBE participation specified in the solicitation or other request is an eligible arrangement, as defined in this subpart.

(b) Nothing in this subpart shall require any sponsor to modify or abrogate an existing concession agreement (one executed prior to the date the sponsor became subject to this subpart) during its term. When options to renew such agreements are exercised or when a material amendment is made to the agreement, the sponsor shall assess the potential for DBE participation and include any opportunities in the goals established under paragraph (a) of § 23.95.

§ 23.105 Privately-owned terminal buildings.

(a) Awards of concession agreements that are made by private owners of terminal buildings are covered by this subpart. Airport sponsors subject to this subpart shall levy the applicable requirements on the terminal owner through the agreement with the owner or by other means, except that certification shall, in the case of primary airports, be performed by the airport sponsor. The sponsor shall ensure that the terminal owner complies with these requirements.

(b) If the terminal building is at a primary airport, the sponsor shall obtain from the terminal owner the overall goals and other elements of the DBE concession plan required under § 23.95. This information shall be incorporated into the concession plan and goals established by the sponsor and

submitted to the FAA in accordance with this subpart.

(c) If the terminal building is at a commercial service airport (except primary), general aviation, or reliever airport, the sponsor shall ensure that the owner complies with the requirements in paragraph (c) of § 23.93.

§ 23.107 Prohibition on long-term, exclusive concession agreements.

(a) Except as provided in paragraph (b) of this section, sponsors shall not enter into long-term, exclusive agreements for the operation of concessions. For purposes of this section, a long-term agreement is one having a term in excess of five years. Guidelines for determining whether an agreement is exclusive, as used in this section, have been included in the FAA's "DBE Program Development Kit for Airport Grant-in-Aid Recipients." This publication can be obtained from any FAA Regional Civil Rights Officer or from the FAA Office of Civil Rights, 800 Independence Avenue, SW., Washington, DC 20591, Attention, ACR-4.

(b) A long-term, exclusive agreement is permitted under this subpart, provided that:

(1) Special local circumstances exist that make it important to enter such agreement, and

(2) The responsible FAA regional civil rights officer approves of a plan for ensuring adequate DBE participation throughout the term of the agreement.

(c) Approval of the plan referenced in paragraph (b)(2) of this section relieves the sponsor of the need to obtain an exemption under the procedures of § 23.41(f) and the Notice of Policy (45 FR 45281, July 3, 1980). The Notice of Policy can be obtained from the FAA Office of Civil Rights at the address given in paragraph (a) of this section.

(d) Sponsors shall submit the following information with the plan referenced in paragraph (b)(2) of this section:

(1) A description of the special local circumstances that warrant a long-term, exclusive agreement, e.g., a requirement to make certain capital improvements to a leasehold facility.

(2) A copy of the draft and final leasing and subleasing or other agreements. The long-term, exclusive agreement shall provide that:

(i) One or more DBE's will participate throughout the term of the agreement and account for at least 10 percent of the annual estimated gross receipts.

(ii) The extent of DBE participation will be reviewed prior to the exercise of each renewal option to consider

whether an increase is warranted. (In some instances, a decrease may be warranted.)

(iii) A DBE that is unable to perform successfully will be replaced by another DBE, if the remaining term of the agreement makes this feasible.

(3) Assurances that the DBE participation will be in an acceptable form, such as a sublease, joint venture, or partnership.

(4) Documents used by the sponsor in certifying the DBE's.

(5) A description of the type of business or businesses to be operated, location, storage and delivery space, "back-of-the-house facilities" such as kitchens, window display space, advertising space, and other amenities that will increase the DBE's chance to succeed.

(6) Information on the investment required on the part of the DBE and any unusual management or financial arrangements between the prime concessionaire and DBE.

(7) Information on the estimated gross receipts and net profit to be earned by the DBE.

§ 23.109 Compliance procedures.

In the event of noncompliance with this subpart by a sponsor, the FAA Administrator may take any action provided for in section 519 of the Airport and Airway Improvement Act of 1982, as amended.

§ 23.111 Effect on § 23.43(d).

Except for commitments made prior to issuance of this subpart as a condition of receiving an exemption from § 23.43(d)(1), which prohibits certain long-term, exclusive agreements, the provisions of § 23.43(d) shall not apply to any airport, its lessees, concessionaires, or other organizations, if the airport sponsor is covered by the requirements in this subpart. Leasing goals established in accordance with § 23.43(d)(2) and approved by the FAA prior to the effective date of this subpart shall terminate as set forth below:

(a) For primary airports, upon FAA approval of a DBE concession plan required under § 23.93(b).

(b) For nonprimary airports, at the conclusion of the period to which the leasing goal applies.

Appendix A to Subpart F—Size Standards for Airport Concessionaires

MAXIMUM AVERAGE ANNUAL GROSS RECEIPTS IN PRECEDING 3 YEARS

[In millions of dollars]

Concession	Amount
Food and beverage.....	30.00
Book stores.....	30.00
Auto rental.....	40.00
Banks.....	¹ 100.00
Hotels and motels.....	30.00
Insurance machines and counters.....	30.00
Gift, novelty, and souvenir shop.....	30.00

MAXIMUM AVERAGE ANNUAL GROSS RECEIPTS IN PRECEDING 3 YEARS—Continued

[In millions of dollars]

Concession	Amount
Newstands.....	30.00
Shoe shine stands.....	30.00
Barber shops.....	30.00
Automobile parking.....	30.00
Jewelry stores.....	30.00
Liquor stores.....	30.00
Travel agencies.....	30.00
Drug stores.....	30.00
Pastries and baked goods.....	30.00
Luggage cart rental.....	30.00
Coin-operated T.V.'s.....	30.00
Game rooms.....	30.00
Luggage and leather goods stores.....	30.00
Candy, nut, and confectionery stores.....	30.00
Toy stores.....	30.00
Beauty shops.....	30.00
Vending machines.....	30.00
Coin-operated lockers.....	30.00
Florists.....	30.00
Advertising.....	30.00
Taxicab.....	30.00
Limousines.....	30.00
Duty free shops.....	30.00
Pay telephones.....	² 1,500
Gambling machines.....	30.00
Other concessions not shown above.....	30.00

¹ As measured by total assets

² As measured by number of employees.

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Proposed Rules

Federal Register

Vol. 57, No. 84

Thursday, April 30, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 26, 70, and 73

RIN 3150-AD68

Fitness-for-Duty Requirements for Licensees Who Possess, Use, or Transport Category I Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to establish fitness-for-duty requirements for licensees authorized to possess, use, or transport unirradiated formula quantity of strategic special nuclear material (Category I Material). These proposed amendments would provide greater assurance that those employees who are granted unescorted access to any amount of strategic special nuclear material (SSNM), who create or have access to safeguards records, who make measurements of SSNM, who transport or escort SSNM, and who guard SSNM do not have a drug or alcohol problem.

DATES: Submit comments by July 29, 1992. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attn.: Docketing and Service Branch. Deliver comments to: One White Flint North, 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

Copies of the environmental assessment and finding of no significant impact, the supporting statement submitted to OMB, the regulatory analysis, and public comments received may be examined at: The NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stanley P. Turel, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3739.

SUPPLEMENTARY INFORMATION:

Background

The NRC recognizes drug and alcohol abuse to be a social, medical, and safety problem affecting every segment of our society. Given the pervasiveness of the problem, it must be recognized to exist to some extent in the nuclear industry. Accordingly, on June 7, 1989, the Commission published a final rule that required licensees authorized to construct or operate nuclear power reactors to implement a fitness-for-duty program (54 FR 24468). During the first year (calendar year 1990) of drug and alcohol testing of nuclear power plant workers, approximately one percent of tests administered under the part 26 requirements were positive. The NRC has no reason at the present time to believe that the incidence of positive tests for workers affected by the proposed rulemaking would be appreciably less than the preceding percentage.

Existing regulations contained in 10 CFR part 26 do not contain fitness-for-duty requirements for licensees who possess, use, or transport Category I Material: i.e., unirradiated formula quantities of strategic special nuclear material. These amendments are being proposed to require this category of licensee to implement such requirements.

This proposed rule is limited to licensees who are authorized to possess, use, or transport unirradiated Category I Material. It is not intended to include spent fuel storage facilities and non-power reactors possessing, using, or transporting formula quantities of irradiated SSNM which are exempt from the Category I physical protection requirements as set forth in 10 CFR 73.6.

Discussion

The issue is that the employees of licensees who are authorized to possess, use, or transport Category I Material could be more easily coerced into participating in, or covering up, a diversion of strategic special nuclear material in any amount, if those employees have a drug or alcohol

problem. Government sponsored studies have indicated a significant relationship between drug use and criminal conduct. Workers with drug or alcohol problems often have financial difficulties which make them susceptible to approaches by criminal, terrorist, or foreign intelligence entities who might recruit the workers to provide them with sensitive information or property in return for money.

Workers with substance abuse problems may engage in activities which make them vulnerable to blackmail, and as a result, they may participate or assist in acts of theft, sabotage, or the diversion of information or property. Also, if the human component of a safeguards system fails or is compromised, then the safeguards system would be seriously degraded or negated. Therefore, it is necessary to ensure that those employees who are a critical component of a safeguards system do not have a drug or alcohol problem. An example of such a failure would be a guard on duty that was incapacitated because of a drug or alcohol problem, thus enabling a theft of SSNM. A secondary issue is the safety concern. Evidence has shown that use of alcohol or drugs can impair a worker's motor skills and judgment sufficiently that accidents attributable to neglect or error are significantly more probable. The effects of such accidents are such that they will be contained largely within the boundaries of the facility having little or no consequence to the general public. Existing requirements for fitness-for-duty programs contained in 10 CFR part 26 are applicable to nuclear power plant personnel and do not include the employees of Category I Material licensees. Under normal circumstances, the risk of diversion is not high for these licensees because specific safeguards controls are already in place. However, if a drug or alcohol is involved, one likely scenario could be collusion between a material handler and a recordkeeper (or a chemist). Collusion would enable the diversion to happen or be covered up. It is possible that substance abuse could provide the leverage by which employees could be induced to commit these types of acts.

The diversion of Category I Material could become a safeguards problem which would be inimical to the national defense and security. But even if less than a formula quantity of SSNM were successfully diverted, the country could

be at serious risk of blackmail by threat of using the material in a nuclear weapon. Alternately, if the material were to be sold to a terrorist group that had the ability to convert it into a crude nuclear weapon, and if that weapon were used, the consequence of the resulting explosion could be extremely costly in terms of lives and destruction. Therefore, the Commission believes that those employees of Category I licensees who are granted unescorted access to any amount of SSNM, who create or have access to safeguards records, who make measurements of SSNM, who transport or escort SSNM, and who guard SSNM should be subject to the fitness-for-duty requirements proposed in this rulemaking. Accordingly, this proposed rule is intended to discourage and detect the abuse of alcohol or drugs by subjecting certain licensee employees to a chemical testing program, including random tests, and to correct such abuse through the employee assistance program. The cost of this amendment for the facilities affected would be a total of approximately \$1 million for implementation and approximately \$1 million dollars per year for operational costs.

Submission of Comments on Exemptions

Comments (with justification) are specifically requested on which classes of workers should be exempted from the rule. Such classes may be described by job category or responsibilities or by virtue of classification held, e.g., individuals who hold only NRC-R clearances under 10 CFR part 11.

Submission of Comments on Avoidance of Duplicative Chemical Testing of Some Drivers of Transport Vehicles

Currently, the Department of Transportation (DOT) requires chemical testing for drugs for drivers of transport vehicles. This proposed rulemaking would require chemical testing for drugs and alcohol for drivers of vehicles transporting SSNM. Comments (with justification) are specifically requested on the following questions.

1. Since chemical testing for drugs for drivers of transport vehicles is required by DOT regulations; (a) would a similar requirement by NRC for drivers of vehicles transporting SSNM result in duplicate testing for a significant number of drivers; and (b) would the requirements have a significant adverse impact on either the affected drivers or licensees?

2. Would adequate chemical testing for drugs be ensured if the final rule required NRC licensees to certify that drivers of vehicles transporting SSNM

have been continuously subject to chemical testing for drugs under either NRC or DOT requirements? Separately, NRC would require testing for alcohol for drivers of vehicles transporting SSNM.

Submission of Comments in Electronic Format

Commenters may submit, in addition to the original paper copy, a copy of the letter in an electronic format on IBM PC MS-DOS compatible 3.5- or 5.25-inch double-side, double-density (DS/DD) or high density (HD) diskettes. Data files should be provided in WordPerfect 5.0 or 5.1, unformatted ASCII code, or if formatted text is required, data files should be provided in IBM Revisable-Form-Text Document Content Architecture (RFT/DCA) format.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The amendment proposed would require subjecting certain licensee employees to a chemical testing program, including random tests for the use of drugs or alcohol, to all persons:

- (1) Who are granted unescorted access to SSNM,
- (2) Who are given responsibilities to create or have access to material control and accounting records,
- (3) Who are given responsibilities to measure SSNM,
- (4) Who are given responsibilities to transport or escort SSNM, and
- (5) Are given responsibilities to guard SSNM.

These requirements have no identifiable environmental impact. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L St. NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and the finding of no significant impact may be obtained from Stanley P. Turel, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3739.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

The public reporting burden for this collection of information is estimated to average 29 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB-7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-3019, (3150-0146), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The NRC has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L St. NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Stanley P. Turel, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3739.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule affects licensees who are authorized to possess, use, or transport Category I Material. These licensees do not fall within the scope of the definition of "small entities" set forth in the Small Business Size Standards adopted by the Commission in 1985 (see 50 FR 5024; December 9, 1985, and 56 FR 56671; November 6, 1991).

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not

apply to this proposed rule because these amendments do not impose requirements on existing 10 CFR part 50 licensees. Therefore, a backfit analysis is not required for this proposed rule.

List of Subjects

10 CFR Part 26

Alcohol abuse, Alcohol testing, Appeals, Category I Material, Chemical testing, Drug abuse, Drug testing, Employee assistance programs, Fitness for duty, Management actions, Nuclear power reactors, Protection of information, Reporting and recordkeeping requirements, Sanctions, and Transporters.

10 CFR Part 70

Criminal penalty, Hazardous materials—transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, and Special nuclear material.

10 CFR Part 73

Criminal penalty, Hazardous materials—transportation, Incorporation by reference, Nuclear material, Nuclear power plants and reactors, Reporting and recordkeeping requirements, and Security measures.

For the reasons stated in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Parts 26, 70, and 73.

PART 26—FITNESS-FOR-DUTY PROGRAMS

1. The authority citation for part 26 continues to read as follows:

Authority: Secs. 53, 18, 103, 104, 107, 161, 68 Stat. 930, 935, 936, 937, 939, 948, as amended (42 U.S.C. 2073, 2111, 2112, 2133, 2134, 2137, 2201); Secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

For the purposes of Sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); Secs. 26.20, 26.21, 26.22, 26.23, 26.24, 26.25, 26.27, 26.28, 26.29 and 26.80 are issued under Sec. 161(b) and (i), 68 Stat. 948, and 949, as amended (42 U.S.C. 2201(b) and (i)); Secs. 26.70, 26.71, and 26.73 are issued under sec. 161o, 68 Stat. 950, as amended [42 U.S.C. 2201(o)].

2. Section 26.1 is revised to read as follows:

§ 26.1 Purpose.

This part describes requirements and standards for the establishment and

maintenance of certain aspects of fitness-for-duty programs and procedures by the licensed nuclear power industry, by persons licensed to possess or use Category I Material, and by transporters of Category I Material.

3. Section 26.2 is revised to read as follows:

§ 26.2 Scope.

(a) The regulations in this part apply to licensees authorized to operate a nuclear power reactor, to possess or use Category I Material, or to transport Category I Material. Each licensee shall implement a fitness-for-duty program which complies with this part. The provisions of the fitness-for-duty program must apply to all persons granted unescorted access to protected areas, to licensee, vendor, or contractor personnel, required to physically report to a licensee's Technical Support Center (TSC) or Emergency Operations Facility (EOF) in accordance with licensee emergency plans and procedures, and to Category I Material licensee and transporter personnel:

(1) Granted unescorted access to any amount of strategic special nuclear material (SSNM),

(2) Who create or have access to safeguards procedures or records for SSNM,

(3) Who make measurements of SSNM,

(4) Who transport or escort any amount of SSNM, or

(5) Who guard any amount of SSNM.

(b) The regulations in this part do not apply to NRC employees, or to law enforcement personnel or offsite emergency fire and medical response personnel while responding on-site.

(c) Certain regulations in this part apply to licensees holding permits to construct a nuclear power plant. Each construction permit holder, with a plant under active construction, shall comply with §§ 26.10, 26.20, 26.23, 26.70, and 26.73 of this part; shall implement a chemical testing program, including random tests; and shall make provisions for employee assistance programs, imposition of sanctions, appeals procedures, the protection of information, and recordkeeping.

4. In § 26.3, the terms "Category I Material" and "Transporter" are added to read as follows:

§ 26.3 Definitions.

Category I Material means an unirradiated formula quantity of strategic special nuclear material (SSNM) as defined in part 70 of this chapter.

Transporter means a general licensee pursuant to 10 CFR 70.20a, who is authorized to possess Category I Material in the regular course of carriage for another or storage incident thereto, and includes the driver or operator of any conveyance, and the accompanying guards or escorts.

5. In § 26.10, paragraph (a) is revised to read as follows:

§ 26.10 General performance objectives.

Fitness-for-duty programs must:

(a) Provide reasonable assurance that nuclear power plant personnel, transporter personnel, and personnel of licensees authorized to possess or use Category I Material, will perform their tasks in a reliable and trustworthy manner and are not under the influence of any substance, legal or illegal, or mentally or physically impaired from any cause, which in any way adversely affects their ability to safely and competently perform their duties;

6. In § 26.24, paragraph (b) is revised to read as follows:

§ 26.24 Chemical and alcohol testing.

(b) Testing for drugs and alcohol must at a minimum, conform to the "Guidelines for Drug and Alcohol Testing Programs," issued by the Nuclear Regulatory Commission and appearing in appendix A to this rule, hereinafter referred to as the NRC Guidelines. Licensees, at their discretion, may implement programs with more stringent standards (e.g., lower cutoff levels, broader panel of drugs). All requirements in this part apply to persons who fail a more stringent standard, but do not test positive under the NRC Guidelines; management actions must be the same as if the individual failed the NRC standards.

7. In § 26.27, paragraphs (a), (b)(2), and (b)(3) are revised to read as follows:

§ 26.27 Management actions and sanctions to be imposed.

(a) Prior to the initial granting of unescorted access to a protected area, or to the initial granting of unescorted access by a Category I Material licensee to any amount of SSNM, or to the initial assignment to create or the initial granting of access to safeguards records or procedures for SSNM, or to the initial assignment to measure SSNM, or to the initial assignment to transport or escort any amount of SSNM, or to the initial assignment to guard any amount of

SSNM, or the assignment to activities within the scope of this Part to any person, the licensee shall obtain a written statement from the individual as to whether activities within the scope of this part were ever denied the individual. The licensee, as applicable, shall complete a suitable inquiry on a best-efforts basis to determine if that person has, in the past, tested positive for drugs or use of alcohol that resulted in on-duty impairment, subject to a plan for treating substance abuse (except for self-referral for treatment), or removed from activities within the scope of this Part, or denied unescorted access at any other nuclear power plant, or denied unescorted access to SSNM, or removed from responsibilities to create or have access to safeguards records or procedures for SSNM, or removed from responsibilities to measure SSNM, or removed from the responsibilities of transporting or escorting any amount or SSNM, or removed from the responsibilities of guarding any amount of SSNM at any other facility in accordance with a fitness-for-duty policy. If such a record has been established, the new assignment to activities within the scope of this part or granting of unescorted access must be based upon a management and medical determination of fitness for duty and the establishment of an appropriate follow-up testing program, provided the restrictions of paragraph (b) of this section are observed. To meet this requirement, the identity of persons denied unescorted access or removed under the provisions of this Part and the circumstances for such denial or removal, including test results, will be made available in response to a licensee's, contractor's or vendor's inquiry supported by a signed release from the individual. Failure to list reasons for removal or revocation of unescorted access shall be sufficient cause for denial of unescorted access. Temporary access provisions shall not be affected by this Part provided that the prospective worker passes a chemical test conducted according to the requirements of 26.24(a)(1).

(b) * * *

(2) Lacking any other evidence to indicate the use, sale, or possession of illegal drugs onsite, a confirmed positive test result must be presumed to be an indication of offsite drug use. The first confirmed positive test must, as a minimum, result in immediate removal from activities within the scope of this Part for at least 14 days and referral to the EAP for assessment and counseling during any suspension period. Plans for treatment, follow-up, and future

employment must be developed, and any rehabilitation program deemed appropriate must be initiated during such suspension period. Satisfactory management and medical assurance of the individual's fitness to adequately perform activities within the scope of this part must be obtained before permitting the individual to be returned to these activities. Any subsequent confirmed positive test must result in removal from unescorted access to protected areas:

(i) Removal from unescorted access to SSNM.

(ii) Removal from responsibilities to create or have access to safeguards records or procedures for SSNM.

(iii) Removal from responsibilities to measure SSNM.

(iv) And removal from the responsibilities of transporting or escorting any amount of SSNM.

(v) or removal from the responsibilities of guarding any amount of SSNM at any other licensee facility, as applicable.

(vi) And activities within the scope of this Part for a minimum of 3 years from the date of removal.

(3) Any individual determined to have been involved in the sale, use, or possession of illegal drugs, while, as applicable, within a protected area of any nuclear power plant, within a facility that is licensed to possess or use Category I Material, or within a transporter's facility or vehicle, must be removed from activities within the scope of this part. The individual, as applicable, may not:

(i) Be granted unescorted access to protected areas.

(ii) Be granted unescorted access to SSNM.

(iii) Be given responsibilities to create or have access to safeguards records or procedures for SSNM.

(iv) Be given responsibilities to measure SSNM.

(v) Be given responsibilities to transport or escort any amount of SSNM.

(vi) Be given responsibilities to guard any amount of SSNM or

(vii) Be assigned to activities within the scope of this part for a minimum of 5 years from the date of removal.

8. In § 26.73, paragraph (d) is revised to read as follows:

§ 26.73 Reporting requirements.

(d) By [date 6 months after publication of final rule] each licensee who is authorized to possess, use, or transport Category I Material shall certify to the

NRC that it has implemented a fitness-for-duty program that meets the requirements of 10 CFR part 26. The certification shall describe any licensee cut-off levels more stringent than those imposed by this part.

Appendix A—Guidelines for Drug and Alcohol Testing Programs

9. In appendix A, the title is revised to read as set forth above.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

10. The authority citation for part 70 continues to read, in part, as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, (42 U.S.C. 2201); sec. 201, 68 Stat. 1242, as amended (42 U.S.C. 5841) * * *

11. In § 70.20a, paragraph (d)(3) is revised to read as follows:

§ 70.20a General license to possess special nuclear material for transport.

(d) * * *

(3) Shall be subject to part 26 and § 73.80 of this chapter.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

12. The authority citation for part 73 continues to read in part as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, (42 U.S.C. 2201); sec. 201, 68 Stat. 1242, as amended (42 U.S.C. 5841) * * *

13. In § 73.6, the introductory paragraph is revised to read as follows:

§ 73.6 Exemptions for certain quantities and kinds of special nuclear material.

A licensee is exempt from the requirements of 10 CFR part 26 and §§ 73.20, 73.25, 73.26, 73.27, 73.45, 73.46, 73.70 and 73.72 with respect to the following special nuclear material:

Dated at Rockville, Maryland, this 24th day of April, 1992.

For the Nuclear Regulatory Commission,
Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 92-10014 Filed 4-29-92; 8:45 am]
BILLING CODE 7590-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1303

Regulatory Investigation; Lead in Paint

AGENCY: Consumer Product Safety Commission.

ACTION: Regulatory investigation.

SUMMARY: The Commission is investigating the possible revision of its lead in paint regulations in light of recent findings regarding the effects of lead toxicity. Application of these findings in the estimation of a regulatory level indicates to the Commission's staff that the maximum allowable limit for lead in paint used as or on consumer products could possibly be reduced from the current 0.06% to 0.01%, as measured by weight in the dried paint film. Information and comments are requested on the maximum allowable limit for lead in paint, exposure to lead paint and on uses of lead paint that are now, or should be, exempted from the regulation.

DATES: Information in response to this notice should be received by the Commission by July 14, 1992.

ADDRESSES: Information submitted in response to this notice should be captioned "Limits for Lead in Paint" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207-0001, or delivered to room 420, 5401 Westbard Avenue, Bethesda, Maryland 20816-1469.

FOR FURTHER INFORMATION CONTACT: Brian C. Lee, Ph.D., D.A.B.T., Project Manager, Directorate for Health Sciences, Division of Health Effects, Consumer Product Safety Commission, Washington, DC 20207-0001; 301/504-0994, 964-0994 FTS.

SUPPLEMENTARY INFORMATION:**1. Background**

The Commission administers the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051-2084). The CPSA authorizes the Commission to establish consumer product safety rules when the Commission determines, among other findings, that the rule is "reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with [a consumer] product." If the Commission determines (among other findings) that a consumer product presents an unreasonable risk of injury and that no feasible safety standard would adequately reduce the risk, the Commission is authorized to ban the product.

For the purposes of this notice, "paint" means surface coatings with or without coloring matter, that change to a solid film after application (16 CFR 1303.2). It does not cover printing inks, electroplating, or ceramic glazing. This notice is concerned with paints meant for sale to consumers, used in residential housing and schools and on

furniture, toys, and other items meant for use by children.

The Lead Based Paint Poison Prevention Act (LBPPPA), 42 U.S.C. 4801 *et seq.*, set the maximum allowable limit of lead in paint to 0.5% of the dry film weight, and effectively eliminated lead pigments from paint. The LBPPPA, as amended by the National Consumer Health Information and Health Promotion Act of 1976 (Pub. L. 94-317, 90 Stat. 705-706), directed the Commission to determine whether it could demonstrate that a level of lead greater than 0.06% but less than 0.5% was safe. The Commission determined that the available information and data did not support a finding that a level greater than 0.06% but less than 0.5% was safe. As a result, the congressionally-established definition of "lead-based paint" under the LBPPPA (0.06%) automatically became effective in 1977. The Commission then established a ban on lead-containing paint and certain consumer products bearing lead-containing paint (Tab A, 16 CFR part 1303) as a regulation under the CPSA, to reduce the unreasonable risk of injury associated with paint greater than 0.06% lead. The ban became effective in 1978.

1.A. Sources of Lead in Paint

Lead has occurred in paint as pigments, driers, and contaminants. Contamination is believed to be the remaining source of lead in paint, aside from manufacturing errors and intentional additions. Likely sources of contamination are the natural presence of lead in certain pigments derived from earthen materials, for example, zinc ore, and the accidental cross-contamination of lead-free paint by intentionally-lead-paint or other lead product manufacturing processes within the same facility.

1.B. Development of the Current 0.06% Limit

The 0.06% level was recommended by the American Academy of Pediatrics Committee on Environmental Health (AAP, 1972) and affirmed by the National Academy of Sciences (NAS, 1973). The American Academy of Pediatrics (1972) estimated that lead poisoning occurs when the lead intake from sources other than food exceeds 150 micrograms (ug) per day in children. Bartrop (1973) estimated an intake of 156 ug/day of lead from food, water, and air. Based on differences in body weight, Bartrop then reduced the daily permissible intake of 600 ug for adults to 180 ug for a two-year-old. He then added a caloric requirement correction which lowered it to 133 ug. Four major

assumptions were then made to derive the 0.06% limit:

(a) Lead paint exposure from inhalation is negligible compared to the ingestion route.

(b) Paint on a typical surface is six coats thick.

(c) A child eats the equivalent of about one square inch of paint per day.

(d) Absorption of lead from ingested lead paint is 10%, the same as for lead from food.

At the time of the National Academy of Sciences (1973) and the American Academy of Pediatrics (1972) assessments, lead "poisoning" was defined as blood lead greater than 60 ug/deciliter (dl). The National Academy of Sciences felt that a blood lead greater than 40 ug/dl was "considered evidence of undue absorption", referring to exposure from paint ingestion. The American Academy of Pediatrics used a determination by King (1971) that an intake of less than 300 ug/day would not significantly increase blood lead. An intake of 200 ug/day was selected as a target level which corresponds to the amount of lead in a six-coat-thick chip of 8.5 cm² (1.3 square inches) of 0.06% lead paint (NAS, 1973) or 10 cm² (1.4 square inches) of 0.05% lead paint (AAP, 1972).

2. Information

Recent data indicate that humans, particularly young children and fetuses, may be more sensitive to the adverse health effects of lead than was believed in the early 1970s. Of critical importance is the retardation of mental development, which can be observed at blood levels as low as 10 ug/dl. While this blood level does not require immediate medical attention, these neurobehavioral effects can persist for several years (CDC, 1991). Several Federal agencies agree that 10 ug/dl is a level of concern for adverse health effects; these agencies include the Agency for Toxic Substances and Disease Registry (ATSDR, 1988, 1990), Centers for Disease Control (CDC, 1991), CPSC (1989), and Environmental Protection Agency (EPA, 1990). Other adverse health effects, such as prematurity, decreased birthweight and stature, and biochemical alterations, have also been observed at blood levels from 10 ug/dl upward.

When the 10 ug/dl blood level of concern, along with other recent data, such as the absorption of ingested lead in young children, is applied in a process similar to that used to develop the 0.06% limit, the resulting maximum allowable limit for lead in paint is estimated as 0.01% (CPSC, 1990).

However, there are certain data gaps concerning exposure, such as the amount of paint ingested daily and the absorption of ingested paint. These gaps also existed in the development of the 0.06% limit. The exposure assumptions originating from the early 1970's reports (NAS, 1973; AAP, 1972), which were used when the 0.06% limit was established, were applied when these data gaps occurred.

3. Request for Information and Comments

The Commission seeks additional information for the assessment of age-specific, nonoccupational exposure to lead in paint, including residential architectural paint and paint from toys and other consumer products. Such information may be useful in the verification of assumptions or filling of data gaps in developing and considering recommendations for lower limits for lead in paint. Technical information is desired to answer questions in the following categories:

3.A.i. Ingestion of Paint

What are the average age-specific amounts and ranges of variability of ingested paint chips and dust for nonoccupational exposures?

What are the age-specific absorption rates or absorption percentages of lead from ingested paint chips and dust?

What effect does degradation of the paint matrix from aging, weathering, household cleansers, etc., have on the absorption rates or absorption percentages of lead from ingested paint chips and dust?

3.A. Inhalation of Paint

What are the average age-specific amounts and ranges of variability of inhaled paint dust for nonoccupational exposures?

What are the age-specific absorption rates or absorption percentages of lead from inhaled paint dust and its contribution to blood lead?

What effect does degradation of the paint matrix from aging, weathering, household cleansers, etc., have on the absorption rates or absorption percentages of lead from inhaled paint dust?

3.B. Lead Levels in Paint

What is the average thickness and weight and ranges of variability, for coats of paint?

What sources of lead contamination of paint exist?

How much does each of these sources contribute to the lead level in paint?

Which types and colors of consumer paint are likely to be contaminated with lead?

What are the average levels and range of variability of lead, whether from contamination or intentional use, in the various types of paint currently used or available in the marketplace?

Which analytical and sampling procedures are used and what levels of accuracy and precision result from their practice?

What methods of control of lead sources are followed in the manufacture of paint?

Do these methods differ among manufacturing plants?

What measures or processes could be taken to reduce lead contamination of consumer paints?

What percentage of paint is tested before use or sale?

What additional steps, processes, equipment, or monitoring would be needed to ensure that the lead level of paint would be less than 0.01%?

3.C. Intentionally Leaded Paint

Which applications of leaded paint are currently used?

What new technologies and applications have been developed for lead in paint and other surface coatings?

What lead-free substitutes are available for currently exempted uses of leaded paint?

4. Policy Considerations

In addition to technical information described above, the Commission solicits the views of interested persons or organizations concerning a lower limit for lead in paint and the rationale for their views, including the health effects of blood levels from 10 ug/dl upwards. The Commission requests comments from national, state, and local governments concerning their laws or proposals that regulate lead in paint more stringently than the 0.06% limit. Information and comments that were considered in their enactment or submitted in their support are also requested.

5. Trade Secret or Proprietary Information

A Person or organization responding to this notice, who wishes to submit information believed to be a trade secret or proprietary information, should identify the trade secret or proprietary information at the time of submission. Information that is claimed to be a trade secret or proprietary information will be received and handled in a confidential manner and in accordance with section 6(a) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2055(a)). Such

information will not be placed in a public file and will not be made available to the public merely upon request.

If the Commission receives a request for disclosure of the information or concludes that disclosure is necessary to discharge its responsibilities, the Commission will inform the person or organization who submitted the information and provide that person or organization with an opportunity to present additional information and views concerning the confidential nature of the information. A determination regarding the release of information submitted in response to this notice, which is claimed to be trade secret or proprietary information, will be made in accordance with applicable provisions of the CPSA, the Freedom of Information Act (FOIA) (5 U.S.C. 552b), 18 U.S.C. 1905, the Commission's procedural regulations codified at 16 CFR part 1015 governing protection and disclosure of information under the provisions of the FOIA, and relevant judicial interpretations of these statutes and regulations. Information which has been submitted with a claim that it is trade secret or proprietary information will not be made public until its status as trade secret or proprietary information is resolved in accordance with applicable provisions of law.

6. References

- AAP, American Academy Pediatrics Committee on Environmental Hazards (1972)—"Lead content of paint applied to surfaces accessible to young children." *Pediatrics* 49: 918-921.
- ATSDR, Agency for Toxic Substances and Disease Registry (1988)—"The Nature and Extent of Lead Poisoning in Children in the United States: a Report to Congress. July.
- ATSDR (1990)—"Toxicological Profile for Lead. Prepared by Syracuse Research Corp. For ATSDR in collaboration with EPA. ATSDR/TP-88/17. June.
- D Bartrop (1973)—"Sources and significance of environmental lead for children." *Proceedings of an International Symposium on the Environmental Health Aspects of Lead. EUR 5004 d-e-f. Comm. Eur. Communities, Luxembourg. In NAS (1973).*
- CDC, Centers for Disease Control (1991)—"Statement on lead. September.
- CPSC, Consumer Product Safety Commission (1989)—"Review of low level lead toxicology." Memorandum to SC Eberle from BC Lee. Dated May 10, 1989.
- CPSC (1990)—"Revision of the CPSC 0.06% lead in paint standard (16 CFR part 1303)." Memorandum to SC Eberle from BC Lee. Dated June 22, 1990.
- EPA, Environmental Protection Agency (1990)—"Air quality criteria for lead: Supplement to the 1986 addendum. Office of Research and Development. EPA/600/8-89/049F. August.

BG King—"Maximum daily intake of lead without excessive body lead-burden in children." *Amer. J. Diseases Child.* 122: 337-340.

NAS, National Academy of Sciences (1973)—Report of the ad hoc committee to evaluate the hazard of lead in paint. Prepared for CPSC, contract #FDA 70-22, task order 16. Dated: April 24, 1992.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 92-10003 Filed 4-29-92; 8:45 am]

BILLING CODE 6355-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Chapter II

[Release Nos. 33-6935, 34-30630, 35-25523, 39-2283, IC-18674, IA-1307; File No. S7-11-92]

Regulatory Flexibility Agenda and Rules Scheduled for Review

AGENCY: Securities and Exchange Commission.

ACTION: Publication of regulatory flexibility agenda.

SUMMARY: The Securities and Exchange Commission is today publishing an agenda of its rulemaking actions, pursuant to the Regulatory Flexibility Act. The agenda is a general announcement to the public intended to provide advance notice of rulemaking actions which may have a significant economic impact on a substantial number of small entities. The Commission invites questions and public comment on individual agenda entries.

DATES: Public comments are due by June 26, 1992.

ADDRESSES: Persons wishing to submit written views should file three copies with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., room 6184, Stop 6-9, Washington, DC 20549. All submissions should refer to File No. S7-11-92, and will be available for public inspection and copying at the Commission's Public Reference Room, room 1026, at the same address.

FOR FURTHER INFORMATION CONTACT:

Thomas M. Selman, Special Counsel, Office of the General Counsel, Securities and Exchange Commission, 450 5th Street, NW., room 6148, Stop 6-6, Washington, DC 20549 (202-272-2428). The names of persons to contact concerning particular rules are identified with each entry.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act ("RFA") (Pub.

L. No. 96-354, 94 Stat. 1164 (September 19, 1980)) requires each federal agency during April and October of each year to publish in the *Federal Register* a regulatory flexibility agenda identifying rules which the agency expects to propose or adopt that are likely to have a significant economic impact on a substantial number of small entities.¹

The RFA specifically provides that the agenda does not preclude the Commission from considering or acting on any matter not included, nor is the Commission required to consider or act on any matter that is included.² Furthermore, the inclusion of a rule in the Commission's agenda reflects only the staff's preliminary judgment that the rule, if adopted or as it exists, may have a significant economic impact on a substantial number of small entities.³ This preliminary judgment may be changed upon further analysis.

The Commission's agenda includes new entries as well as items carried over from the October 1991 publication.⁴ New entries are marked next to the Sequence Number. Priority items are identified under the heading "Significance," followed by the words "Agency Priority." The agenda also lists rulemaking actions which have been completed (or withdrawn) since the last RFA release was published.

The Commission invites public comment on the individual entries in its regulatory agenda.

By the Commission.

Dated: April 24, 1992.

Margaret H. McFarland,

Deputy Secretary.

Title: Simplification of Registration Statements Filed by, and Advertising Rules for, Unit Investment Trusts.

RIN: 3235-AA47 (Prerule).

Legal Authority: 15 U.S.C. 80a-8; 15 U.S.C. 77g; 15 U.S.C. 77j.

CFR Citation: 17 CFR 239.16; 17 CFR 274.12.

Legal Deadline: None.

Abstract: On March 9, 1987, the Commission repropose for public comment Form N-7, a new form for registering unit investment trusts ("UITs") and their securities under the Investment Company Act of 1940 and the Securities Act of 1933. Form N-7 was originally proposed by the Commission on May 14, 1985. Adoption of Form N-7

¹ 5 U.S.C. 602(a).

² 5 U.S.C. 602(d).

³ The agenda relies on the definitions of the term "small entity" for purposes of the RFA which were adopted by the Commission for the various categories of regulated entities. See Securities Act Release No. 6380 (January 28, 1982) (47 FR 5215).

⁴ Unified Agenda of Federal Regulations, October 1991 (Oct. 21, 1991) (56 FR 54412).

would (i) codify the disclosure requirements for UITs into one form; (ii) codify the disclosure standards that have been developed for UITs; and (iii) shorten and simplified the prospectus used in connection with the sale of units in both the initial offering and in the secondary market maintained by the sponsor. The requirement for audited financial statements would be eliminated under certain circumstances. Under the reproposal, the requirement that registrants include certain third party financial statements in the registration statement would be extended to insurers as well as guarantors of portfolio securities of the trust.

The Division of Investment Management is also undertaking to develop for recommendation to the Commission a rule proposal setting forth a uniform method of computing UIT yields. Currently, UITs advertise their performance by means of an "estimated current return," which shows estimated cash flow. However, in a market environment characterized by fluctuating interest rates, estimated current return may not accurately convey the yield of UITs. A uniform method of computation would permit investors to make more informed investment decisions by enabling them to compare the performance of different trusts. The staff is studying a proposal for a uniform method of computing UIT yields submitted by the Investment Company Institute.

Timetable:

Action	Date	FR cite
NPRM.....	05/23/85	50 FR 21282.
NPRM Comment Period End.	07/31/85	
Reproposing Release.	03/17/87	52 FR 8268.
Comment Period End.	05/18/87	

Small Entities Affected: Businesses.
Government Levels Affected: Federal.
Agency Contact:

Eli Nathans, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-3021.

Title: Revision of Investment Company Proxy Rules.

RIN: 3235-AA69 (Proposed).

Legal Authority: 15 U.S.C. 78n; 15 U.S.C. 78w; 15 U.S.C. 80a-20; 15 U.S.C. 80a-37.

CFR Citation: 17 CFR 240.14a-1 to 240.14a-102; 17 CFR 240.14b-1; 17 CFR

240.14c-1 to 240.14c-101; 17 CFR 270.20a-1 to 270.20a-3.

Legal Deadline: None.

Abstract: Absent an exception, every solicitation of a proxy, authorization or consent with respect to any security issued or to be issued by a registered investment company, is subject to rules adopted pursuant to the Securities Exchange Act of 1934 and the Investment Company Act of 1940 concerning solicitations of proxies. Solicitations to which the rules apply may not commence unless each person solicited is furnished or has previously been furnished with a proxy statement containing specified information prepared in accordance with certain rules and the material has been filed with the Commission. The existing proxy rules were adopted in piecemeal fashion and have been the subject of frequent changes. This has led to some duplicative and, in certain cases, complex requirements. To the extent that a proxy statement contains repetitive material or is overly complicated and difficult to read, it may not effectively perform its intended function of communicating meaningful information to security holders in order that they may make informed voting decisions. In order to update the proxy regulations and, in doing so, improve the (cont).

Timetable:

Action	Date	FR cite
NPRM.....	09/00/92	

Small Entities Affected: Undetermined.

Government Levels Affected: Undetermined.

RIN: 3235-AA69.

Title: Revision of Investment Company Proxy Rules.

Additional Information: Abstract Cont: readability of proxy statements and eliminate unnecessary disclosure costs, the Division of Investment Management has commenced a comprehensive review of the proxy regulations as they relate to investment companies. There does not currently exist a basis upon which to quantify the reduced costs and burdens of the revisions, if any, that might result from the staff review. However, if revisions were proposed that applied to all registered investment companies soliciting proxies, unless the solicitation is excepted, such revisions could have a significant economic impact on a substantial number of small entities.

Agency Contact:

Kathleen Clarke, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2107.

Title: Amendments to Form N-2.

RIN: 3235-AB40 (Final).

Legal Authority: 15 U.S.C. 80a-8; 15 U.S.C. 77g; 15 U.S.C. 77j.

CFR Citation: 17 CFR 239.14; 17 CFR 274.11a-1.

Legal Deadline: None.

Abstract: Form N-2 is the registration statement form under the Investment Company Act of 1940 and the Securities Act of 1933 for closed-end management investment companies other than small business investment companies and companies that issue periodic payment plan certificates or are sponsors or depositors of companies issuing such certificates. Included within the registration statement are the companies' prospectuses used in offering their securities to the public. The Commission has proposed a simplified three-part form because current prospectuses have become too cumbersome for the average investor to understand and current requirements result in the disclosure of much information that is not necessarily material to an investment decision.

Timetable:

Action	Date	FR cite
NPRM.....	8/11/89	54 FR 32993
NPRM Comment Period End.....	10/20/89	
Final Action.....	00/00/00	

Small Entities Affected: Undetermined.

Government Levels Affected: Undetermined.

Agency Contact:

Courtney Thornton, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2107.

Title: Disclosure of Security Ratings in Registration Statements of Money Market Funds.

RIN: 3235-AC24 (Completed).

Legal Authority: 15 U.S.C. 77g; 15 U.S.C. 77i; 15 U.S.C. 77s(a).

CFR Citation: 17 CFR 230.134; 17 CFR 230.436; 17 CFR 230.482.

Legal Deadline: None.

Abstract: The Commission proposed amendments to Rules 134, 436, and 482 under the Securities Act of 1933. These amendments are now being considered in conjunction with "Tax Exempt Money Market Fund Rule Proposals," RIN 3235-AE17.

Timetable:

Action	Date	FR cite
Withdrawn.....	04/16/92	

Small Entities Affected: Undetermined.

Government Levels Affected: Undetermined.

Agency Contact:

Eli A. Nathans, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2107.

Title: Technical Amendments to Rules 24f-1 and 24f-2.

RIN: 3235-AC25 (Prerule).

Legal Authority: 15 U.S.C. 80a-24.

CFR Citation: 17 CFR 270.24f-1; 17 CFR 270.24f-2.

Legal Deadline: None.

Abstract: The Division of Investment Management is considering changes in rules 24f-1 and 24f-2, the rules that permit certain investment companies to register securities sold in excess of the number of shares included in a registration statement, to clarify the rules' operation with respect to the measurement of time periods and filing requirements in the context of investment company reorganizations.

Timetable: Next Action

Undetermined.

Small Entities Affected: Undetermined.

Government Levels Affected: Undetermined.

Agency Contact:

Kenneth J. Berman, Deputy Office Chief, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2107.

Title: Rulemaking for Operational EDGAR System.

RIN: 3235-AC48 (Proposed).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 77a to 77aa; 15 U.S.C. 78a to 78ii; 15 U.S.C. 79 to 79z-6; 15 U.S.C. 77aaa to 77bbb; 15 U.S.C. 80a-1 to 80a-52.

CFR Citation: 17 CFR 200; 17 CFR 201; 17 CFR 202; 17 CFR 210; 17 CFR 228; 17 CFR 229; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 249; 17 CFR 260; 17 CFR 269.

Legal Deadline: None.

Abstract: The Commission has issued a concept release requesting public comment on rule changes necessary to accommodate electronic filing in the operational EDGAR system, as well as to update the rules to take advantage of the efficiencies of electronic filing and

processing. The staff intends to recommend that the Commission propose specific rules in this area.
Timetable:

Action	Date	FR cite
ANPRM.....	07/02/86	51 FR 24155.
ANPRM Comment Period End.	09/05/86	
Next Action Undetermined		

Small Entities Affected:
Undetermined.
Government Levels Affected:
Undetermined.
Agency Contact:

Barbara Smith Jacobs, Special Counsel,
Office of Disclosure Policy, Securities
and Exchange Commission, Division
of Corporation Finance, 450 5th Street
NW., Washington, DC 20549, 202 272-
2589.

Title: Rule 153 Definition of Preceded
by a Prospectus as Used in Section
5(b)(2) in Relation to Certain
Transactions.

RIN: 3235-AC61 (Completed).
Legal Authority: 15 U.S.C. 77e.
CFR Citation: 17 CFR 230.153.
Legal Deadline: None.

Abstract: The prospectus delivery
requirement for certain transactions
effected on a national securities
exchange may be satisfied by delivery
to the exchange. The Division of
Corporation Finance is no longer
considering whether to recommend to
the Commission that this procedure be
made available for certain transactions
on the NASDAQ Inter-Dealer Quotation
System.

Timetable:

Action	Date	FR cite
Withdrawn.....	04/16/92	

Small Entities Affected:
Undetermined.
Government Levels Affected:
Undetermined.
Agency Contact:

Richard K. Wulff, Chief, Office of Small
Business Policy, Securities and
Exchange Commission, Division of
Corporation Finance, 450 5th Street
NW., Washington, DC 20549, 202 272-
2644.

Title: Classification of Small Issuers
for Reporting Purposes.
RIN: 3235-AC66 (Completed).
Legal Authority: 15 U.S.C. 781; 15
U.S.C. 78m.
CFR Citation: 17 CFR 230; 17 CFR 240;
17 CFR 244; 17 CFR 260.

Legal Deadline: None.

Abstract: The Division of Corporation
Finance is no longer considering
whether to recommend that the
Commission propose other appropriate
criteria to establish the threshold level
for companies to enter into the
Securities Exchange Act of 1934
reporting system that would supplement
or replace the present size criteria.

Timetable:

Action	Date	FR cite
ANPRM.....	07/08/86	51 FR 25369.
ANPRM Comment Period End.	09/30/86	
Withdrawn.....	04/16/92	

Small Entities Affected:
Undetermined.
Government Levels Affected:
Undetermined.
Agency Contact:

Richard K. Wulff, Chief, Office of Small
Business Policy, Securities and
Exchange Commission, Division of
Corporation Finance, 450 5th Street
NW., Washington, DC 20549, 202 272-
2644.

Title: Advertising by Unit Investment
Trusts.

RIN: 3235-AC70 (Completed).
Significance: Agency Priority.
Legal Authority: 15 U.S.C. 77j; 15
U.S.C. 77s; 15 U.S.C. 80a-37(a).
CFR Citation: Not yet determined.
Legal Deadline: None.

Abstract: The Division of Investment
Management is considering developing
for recommendation to the Commission
a rule proposal setting forth a uniform
method of computing unit investment
trust yields in conjunction with
"Simplification of Registration
Statements Filed by, and Advertising
Rules for, Unit Investment Trusts," RIN
3235-AA47.

Timetable:

Action	Date	FR cite
Withdrawn.....	04/16/92	

Small Entities Affected: Businesses.
Government Levels Affected:
Undetermined.
Agency Contact:
Eli A. Nathans, Attorney, Securities and
Exchange Commission, Division of
Investment Management, 450 5th
Street NW., Washington, DC 20549,
202 272-3021.

Title: Prospectus Delivery
Requirements in Firm Commitment
Underwritten Offerings of Securities
Made for Cash (Rule 433).

RIN: 3235-AC80 (Completed).

Legal Authority: 15 U.S.C. 77b(10); 15
U.S.C. 77s(a); 15 U.S.C. 77j(a)(4); 15
U.S.C. 77j(d).

CFR Citation: 17 CFR 230.433, (New).

Legal Deadline: None.

Abstract: On August 6, 1987, the
Commission proposed two alternative
versions of a new Rule 433 that would
provide a safe harbor from the
requirement to deliver a final prospectus
prior to or contemporaneously with a
confirmation of sale in a firm
commitment offering of securities for
cash. Both proposals would have
permitted, if all conditions of the rule
were satisfied, the sending of a final
prospectus no later than five business
days after a confirmation of sale was
sent to an investor in such an offering.
The comment period expired on October
5, 1987. The Division of Corporation
Finance is no longer considering further
revisions.

Timetable:

Action	Date	FR Cite
NPRM.....	08/06/87	52 FR 29206
NPRM Comment Period End.	10/05/87	
Withdrawn.....	04/16/92	

Small Entities Affected: Businesses.
Government Levels Affected:
Undetermined.
Agency Contact:

Catherine T. Dixon, Chief, Office of
Disclosure Policy, Securities and
Exchange Commission, Division of
Corporation Finance, 450 5th Street
NW., Washington, DC 20549, 202 272-
2589.

Title: Proposed Rule 6c-12 Under the
Investment Company Act of 1940.

RIN: 3235-AC84 (Prerule).

Legal Authority: 15 U.S.C. 80a-6(c).
CFR Citation: 17 CFR 270.6c-12,

(New).

Legal Deadline: None.

Abstract: The Division of Investment
Management is considering whether to
recommend that the Commission
propose a rule that would codify many
exemptions from provisions of the
Investment Company Act granted to
two-tier real estate limited partnerships.
Exemptions pursuant to Section 6(c) of
the Act have generally been granted
where: (1) the two-tier partnership
invests in limited partnerships engaged
in the development and building of
housing for low and moderate income
persons; (2) the limited partnership
interests are sold only to suitable
investors; and (3) requirements for fair
dealing by the general partner of the

issuer with the limited partners of the issuer are included in the basic organizational documents of the partnership. The regulation would reduce the number of exemptive relief applications received by the Office of Investment Company Regulation. No action is expected in the next six months.

Timetable: Next Action Undetermined.

Small Entities Affected: Undetermined.

Government Levels Affected: Undetermined.

Agency Contact:

Diane C. Blizard, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2707.

Title: Rule 15c2-10.

RIN: 3235-AC94 (Final).

Legal Authority: 15 USC 78b; 15 USC 78c; 15 USC 78k-1; 15 USC 78o(c)(1); 15 USC 78o(c)(2); 15 USC 78w(a); 15 USC 78q; 15 USC 78q-1.

CFR Citation: 17 CFR 15c2-10.

Legal Deadline: None.

Abstract: The Commission has proposed for comment a rule that would govern the operation of proprietary securities trading systems that are not operated as facilities of a national securities association or exchange.

Timetable:

Action	Date	FR Cite
NPRM.....	04/30/89	54 FR 15429
NPRM Comment Period End.	08/02/89	
Next Action Undetermined.		

Small Entities Affected: Businesses.
Government Levels Affected: None.
Agency Contact:

Gordon K. Fuller, Special Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2414.

Title: Regulation 13D-G.

RIN: 3235-AD09 (Final).

Legal Authority: 15 U.S.C. 78m(d); 15 U.S.C. 78m(g); 15 U.S.C. 78m(a).

CFR Citation: 17 CFR 240.13d-1; 17 CFR 240.13d-2; 17 CFR 240.13d-7; 17 CFR 240.13d-101; 17 CFR 240.13d-102.

Legal Deadline: None.

Abstract: The Commission has proposed revisions to Regulation 13D to change the disclosure to investors of filings on Schedule 13D, while at the same time reducing the reporting obligations of non-institutional investors that have a passive investment purpose.

Timetable:

Action	Date	FR cite
NPRM.....	03/14/89	54 FR 10552
NPRM Comment Period End.	05/15/89	

Small Entities Affected: Businesses.
Government Levels Affected: None.
Agency Contact:

David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-3097.

Title: Revisions to the Registration and the Annual Supplement Forms Used by Investment Advisers.

RIN: 3235-AD21 (Proposed).

Legal Authority: 15 U.S.C. 78o(b)(1); 15 U.S.C. 78w(a); 15 U.S.C. 80b-3; 15 U.S.C. 80b-4; 15 U.S.C. 80b-6A; 15 U.S.C. 80b-11; 15 U.S.C. 80b-1.

CFR Citation: 17 CFR 275; 17 CFR 279.

Legal Deadline: None.

Abstract: The Division of Investment Management is considering whether to recommend that the Commission revise Form ADV, the investment adviser registration form, and related rules to: (1) request information related to the Commission's recently expanded enforcement authority, (2) enhance disclosure of information about the advisory relationship provided to clients and prospective clients, and (3) require annual amendment of the form. The enhanced disclosure would include specific requirements regarding "wrap fee" programs and additional requirements regarding "soft-dollar" allocations.

Timetable:

Action	Date	FR cite
NPRM.....	06/00/92	

Small Entities Affected: Undetermined.

Government Levels Affected: Undetermined.

Agency Contact:

Eric Freed, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2107.

Title: Report of Management's Responsibilities.

RIN: 3235-AD29 (Completed).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77s(a); 15 U.S.C. 77aa(25); 15

U.S.C. 77aa(26); 15 U.S.C. 781; 15 U.S.C. 78n; 15 U.S.C. 78o(d); 15 U.S.C. 78w(a); 15 U.S.C. 79e(b); 15 U.S.C. 79n; 15 U.S.C. 79t(a); 15 U.S.C. 80a-8.

CFR Citation: 17 CFR 229; 17 CFR 240; 17 CFR 249; 17 CFR 270; 17 CFR 274.

Legal Deadline: None.

Abstract: The Commission has determined to terminate its consideration of proposed rules which would have required registrants to include a report of management's responsibilities in Forms 10-K and N-SAR and annual reports to security holders.

Timetable:

Action	Date	FR Cite
NPRM.....	07/19/88	53 FR 28009
NPRM Comment Period End.	10/24/88	
Withdrawn.....	04/16/92	

Small Entities Affected: None.

Government Levels Affected: None.

Additional Information: 15 U.S.C. 80a-29.

Agency Contact:

John W. Albert, Associate Chief Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street NW., Washington, DC 20549, 202 272-2130.

Title: Technical Amendments to Regulation S-X.

RIN: 3235-AD32 (Final).

Legal Authority: 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77s(a); 15 U.S.C. 77aa(25) and (26); 15 U.S.C. 781; 15 U.S.C. 78n; 15 U.S.C. 78o(d); 15 U.S.C. 78w(a); 15 U.S.C. 79e(b); 15 U.S.C. 79n; 15 U.S.C. 79t(a); 15 U.S.C. 80a-8; 15 U.S.C. 80a-29.

CFR Citation: 17 CFR 210.

Legal Deadline: None.

Abstract: The Commission has proposed amendments to Regulation S-X to conform that regulation to recently adopted changes in generally accepted accounting principles.

Timetable:

Action	Date	FR cite
NPRM.....	02/27/89	54 FR 8202
NPRM Comment Period End.	04/28/89	
Next Action Undetermined		

Small Entities Affected: None.

Government Levels Affected: None.

Agency Contact:

John W. Albert, Associate Chief Accountant, Securities and Exchange Commission, Office of the Chief

Accountant, 450 5th Street NW.,
Washington, DC 20549, 202 272-2130.

Title: Custody of Investment Company
Assets with Registered Futures
Commission Merchants.

RIN: 3235-AD34 (Completed).

Legal Authority: 15 U.S.C. 80a-37.

CFR Citation: 17 CFR 270.17f-6.

Legal Deadline: None.

Abstract: The Division of Investment Management is no longer considering whether to recommend that the Commission propose a rule to permit registered investment companies to maintain initial and excess variation margin in the custody of certain futures commission merchants if appropriate conditions can be developed to ensure the safety and integrity of the assets thus maintained.

Timetable:

Withdrawn.....4/21/92

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Diane C. Blizzard, Special Counsel,
Securities and Exchange Commission,
Division of Investment Management,
450 5th Street NW., Washington, DC
20549, 202 272-2048.

Title: Exemption from Registration
Under the Advisers Act for Certain
Smaller Investment Advisers.

RIN: 3235-AD38 (Completed).

Legal Authority: 15 U.S.C. 80b-6A.

CFR Citation: 17 CFR 275.203(b)(1)-1;

17 CFR 275.203(b)(3)-2.

Legal Deadline: None

Abstract: The Commission has determined not to consider amending rules exempting certain investment advisers from most Federal adviser regulation at this time.

Timetable:

Action	Date	FR cite
Withdrawn.....	04/16/92	

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Eli Nathans, Attorney, Securities and
Exchange Commission, Division of
Investment Management, 450 5th
Street NW., Washington, DC 20549,
202 272-2107.

Title: Diversification by Exempt
Holding Companies.

RIN: 3235-AD39 (Completed).

Legal Authority: 15 U.S.C. 79c(a)(1); 15
U.S.C. 79t(a).

CFR Citation: 17 CFR 250.17; 17 CFR
250.2; 17 CFR 259.402.

Legal Deadline: None.

Abstract: The Division of Investment Management is no longer considering two alternative "safe harbors" under Section 3(a)(1) of the Public Utility Holding Company Act of 1935. A companion proposed amendment to Rule 2 under the Act would have required that, in order for a claim of exemption under Rule 2 to be effective, the claimant must meet one of the safe harbor provisions of Rule 17. Also proposed was an amendment to Form U-3A-2, the statement filed annually by holding companies claiming exemptions under Rule 2, that would request information necessary to determine whether a Rule 2 claim of exemption by an intrastate holding company was meritorious in light of the requirement added to Rule 2.

Timetable:

Action	Date	FR Cite
NPRM.....	02/07/89	54 FR 6701
NPRM Comment Period End.	07/14/89	54 FR 29739
Comment Period Extended to.	08/15/89	
Withdrawn.....	04/16/92	

Small Entities Affected: Businesses.

Government Levels Affected: State,
Federal.

Agency Contact:

William C. Weeden, Assistant Director,
Securities and Exchange Commission,
Division of Investment Management,
450 5th Street NW., Washington, DC
20549, 202 272-7683.

Title: Disclosure of Significant Equity
Participants in Control Transactions.

RIN: 3235-AD42 (Final).

Legal Authority: 15 U.S.C. 78c(b); 15
U.S.C. 78m(d); 15 U.S.C. 78n; 15 U.S.C.
78v.

CFR Citation: 17 CFR 240.13d-101; 17
CFR 240.13e-100; 17 CFR 240.14a-102; 17
CFR 240.14d-100.

Legal Deadline: None.

Abstract: The Commission is considering proposed amendments to Exchange Act Schedules, which are intended to require disclosure of information concerning the identity and background of limited partners and other participants holding significant investments in limited partnerships or other closely held entities or groups of such entities involved with major acquisitions of securities, tender offers, proxy contests and going private transactions.

Timetable:

Action	Date	FR Cite
NPRM.....	03/13/89	54 FR 10360
NPRM Comment Period End.	05/12/89	

Small Entities Affected: Businesses.
Government Levels Affected:
Undetermined.

Agency Contact:

David A. Sirignano, Chief, Office of
Tender Offers, Securities and
Exchange Commission, Division of
Corporation Finance, 450 5th Street
NW., Washington, DC 20549 202 272-
3097.

Title: Rule 801 and Registration Forms
for Rights Offerings.

RIN: 3235-AD44 (Final).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 77c(b); 15
U.S.C. 77s.

CFR Citation: 17 CFR 230.801, (New).

Legal Deadline: None.

Abstract: The Commission has proposed a small issue exemptive rule that would provide an exemption from the registration requirements of the Securities Act of 1933 for certain rights offerings and a Securities Act registration form for certain non-exempt rights offerings. The Commission also proposed amendments to Form F-3 to permit certain foreign private issuers reporting under the Securities Exchange Act of 1934 to register certain offerings, including rights offerings, without meeting the reporting history and public float eligibility requirements of that Form.

Timetable:

Action	Date	FR Cite
NPRM.....	06/14/91	56 FR 27564
NPRM Comment Period End.	09/09/91	
Next Action Undetermined		

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Richard M. Kosnik, Chief, International
Corporate Finance, Securities and
Exchange Commission, Division of
Corporation Finance, 450 5th Street
NW., Washington, DC 20549, 202 272-
3246.

Title: Disclosure of the Bases for a
Board of Director Evaluation of an
Extraordinary Corporate Transaction.

RIN: 3235-AD53 (Completed).

Legal Authority: 15 U.S.C. 78m; 15
U.S.C. 78n; 15 U.S.C. 78w.

CFR Citation: 17 CFR 229.793, (New); 17 CFR 240.13e-100; 17 CFR 240.13e-101; 17 CFR 240.14a-101; 17 CFR 240.14d-1 to 240.14f-1.

Legal Deadline: None.

Abstract: The Division of Corporation Finance is no longer considering whether to recommend that the Commission propose rules that would promote shareholder analysis of extraordinary corporate transactions recommended or approved by the board of directors of the subject company.

Timetable:

Action	Date	FR Cite
Withdrawn.....	04/16/92	

Small Entities Affected: Undetermined.

Government Levels Affected: Undetermined.

Agency Contact:

David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-3097.

Title: Disclosure Requirements Applicable to Blank Check Offerings. RIN: 3235-AD54 (Final).

Legal Authority: 15 U.S.C. 77g; 15 U.S.C. 77s(a).

CFR Citation: 17 CFR 230.419; 17 CFR 240.15g-8.

Legal Deadline: None.

Abstract: In response to enactment of the Penny Stock Reform Act of 1990, the Commission proposed amendments to disclosure requirements applicable to blank check offerings. The amendments would require funds received and securities issued in a blank check offering to be held in escrow until specified conditions are met, including the consummation of an acquisition. The amendments also would prohibit trading in the securities held in escrow and would amend the prospectus delivery period applicable to blank check offerings.

Timetable:

Action	Date	FR Cite
NPRM.....	04/17/91	56 FR 19201
NPRM Comment Period End.	07/19/91	
Next Action Undetermined		

Small Entities Affected: None.
Government Levels Affected: None.
Agency Contact:
Richard Konrath, Attorney Adviser,
Office of Disclosure Policy, Securities

and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2589.

Title: Customer Protection Reserves and Custody of Securities.

RIN: 3235-AD60 (Final).

Legal Authority: 15 U.S.C. 78o(c)(3); 15 U.S.C. 78w.

CFR Citation: 17 CFR 240.15c3-3.

Legal Deadline: None.

Abstract: Because the borrowing of government securities plays an important role in the government securities market, the Commission believes that, for purposes of the customer protection rule, the categories of instruments that broker-dealers can provide to customer lenders of government securities should be expanded to include certain instruments currently not listed in the rule. Therefore, the Commission has proposed an amendment to the customer protection rule that would allow broker-dealers to provide, in addition to the instruments currently listed in the rule, certain government securities as the collateral in government securities borrowings.

Timetable:

Action	Date	FR Cite
NPRM.....	03/15/89	54 FR 10680
NPRM Comment Period End.	05/01/89	
Next Action Undetermined.		

Small Entities Affected: None.
Government Levels Affected: None.
Agency Contact:
Michael Jamroz, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2372.

Title: Net Capital Requirements for Brokers or Dealers.

RIN: 3235-AD62 (Final).

Legal Authority: 15 U.S.C. 78o(c)(3); 15 U.S.C. 78w.

CFR Citation: 17 CFR 240.15c3-1.

Legal Deadline: None.

Abstract: In response to the October 1987 market break and as a part of its comprehensive market break study, the Division of Market Regulation examined the specialist financial responsibility rules and specialist financial surveillance systems of the various exchanges. As a result, the Commission has proposed amendments to the net capital rule that, among other things, will make the rule applicable to certain specialists that are now exempt from the rule. In addition to the consequential

overall financial accountability and discipline that results from the application of the net capital rule, the Commission believes it would be desirable to have a uniform measure whereby it may review the financial health and liquidity of all specialists at all exchanges.

Timetable:

Action	Date	FR Cite
NPRM.....	01/05/89	54 FR 315
NPRM Comment Period End.	04/03/89	
Next Action Undetermined.		

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact:

Michael Macchiaroli, Assistant Director, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2904.

Title: Amendment to Rule 31a-2 Under the Investment Company Act of 1940.

RIN: 3235-AD66 (Final).

Legal Authority: 15 U.S.C. 80a-31(a); 15 U.S.C. 80a-38; 15 U.S.C. 80a-40.

CFR Citation: 17 CFR 270.31a-2.

Legal Deadline: None.

Abstract: Rule 31a-2 specifies where and how long books and records, required to be maintained by United States registered investment companies and other persons, must be preserved. The Commission has proposed for public comment an amendment to the rule that is intended to remove uncertainty regarding the location and language aspects of the recordkeeping requirements for United States registered investment companies, particularly those investment companies investing in foreign securities.

Timetable:

Action	Date	FR Cite
NPRM.....	10/09/90	55 FR 41100
NPRM Comment Period End.	12/10/90	
Next Action Undetermined.		

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact:

Rochelle G. Kauffman, Senior Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2048.

Title: Shelf Offerings Pursuant to Rule 415 Under the Securities Act of 1933.
RIN: 3235-AD67 (Proposed).
Legal Authority: 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s.
CFR Citation: 17 CFR 230.415.
Legal Deadline: None.

Abstract: The Division of Corporation Finance is considering whether to recommend that the Commission propose amendments to Rule 415 to expand the availability of the use of the rule under the Securities Act of 1933 to address current market conditions and transactions.

Timetable: Next Action

Undetermined.

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Abigail Arms, Deputy Chief Counsel, Office of Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2589.

Title: Sales Literature and the Securities Act of 1933.

RIN: 3235-AD68 (Completed).

Legal Authority: 15 U.S.C. 77s.

CFR Citation: 17 CFR 230.

Legal Deadline: None.

Abstract: The Division of Corporation Finance is no longer considering whether to recommend that the Commission propose rules that would address the use of sales literature in connection with securities offerings registered pursuant to the Securities Act of 1933.

Timetable:

Action	Date	FR Cite
Withdrawn.....	04/16/92	

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Catherine T. Dixon, Chief, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2589.

Title: Debt Tender Offers.

RIN: 3235-AD69 (Proposed).

Legal Authority: 15 U.S.C. 77g; 15

U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C.

77aa(12); 15 U.S.C. 781; 15 U.S.C. 78o(d);

15 U.S.C. 78w; 15 U.S.C. 78(e).

CFR Citation: 17 CFR 240.14e-5.

Legal Deadline: None.

Abstract: The Divisions of Corporation Finance and Market Regulation are jointly considering whether to recommend that the Commission issue proposals to amend its rule applicable to debt tender offers. The agency contact for the Division of Market Regulation is Nancy J. Sanow, Assistant Director, Office of Trading Practices (202 272-2848).

Timetable: Next Action

Undetermined.

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

David A. Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-3097.

Title: Reporting Currency in Financial Statements Under Rule 3-20 of Regulation S-X.

RIN: 3235-AD70 (Proposed).

Legal Authority: 15 U.S.C. 77f; 15

U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j;

15 U.S.C. 77s; 15 U.S.C. 77aa(25); 15

U.S.C. 77aa(26); 15 U.S.C. 781; 15 U.S.C.

78n; 15 U.S.C. 78o(d); 15 U.S.C. 78w(a);

15 U.S.C. 79e; 15 U.S.C. 79n; 15 U.S.C.

79k(a); 15 U.S.C. 80a-8.

CFR Citation: 17 CFR 210.3-20.

Legal Deadline: None.

Abstract: The Division of Corporation Finance is considering whether to recommend that the Commission propose revisions to Rule 3-20 of Regulation S-X that would clarify provisions allowing a foreign private issuer to state its financial statements in a currency other than that of the country in which it is incorporated or organized. In lieu of that rule's present reference to the issuer's primary economic environment, the revised rule would identify characteristics of the issuer that would guide the selection of a reporting currency.

Timetable: Next Action

Undetermined.

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Additional Information: 15 U.S.C. 80a-

29.

Agency Contact:

Robert A. Bayless, Chief Accountant, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2553.

Title: Forms for Furnishing Information Pursuant to Rule 12g3-2(b)

Under the Securities Exchange Act of 1934.

RIN: 3235-AD72 (Final).

Legal Authority: 15 U.S.C. 781; 15 U.S.C. 78w.

CFR Citation: 17 CFR 240.12g3-2b; 17 CFR 249.

Legal Deadline: None.

Abstract: The Commission has proposed forms for use by persons furnishing information under Rule 12g3-2(b).

Timetable:

Action	Date	FR Cite
NPRM.....	06/06/91	56 FR 27612
NPRM Comment Period End.	09/09/91	
Next Action Undetermined		

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Richard M. Kosnik, Chief, International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-3246.

Title: Net Capital Requirements for Brokers or Dealers.

RIN: 3235-AD79 (Final).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 78o(c)(3); 15 U.S.C. 78q; 15 U.S.C. 78w.

CFR Citation: 17 CFR 240.15c3-1.

Legal Deadline: None.

Abstract: In response to the October 1987 market break and as a part of its comprehensive market break study, the Division of Market Regulation examined the appropriate levels of minimum net capital required of registered broker-dealers. As a result, the Commission has proposed amendments to the net capital rule that, among other things, would raise the minimum net capital required of various classes of registered broker-dealers. The Commission believes that these higher levels of required net capital are justified based upon the risks posed by undercapitalized firms to customers and to the securities system as a whole.

Timetable:

Action	Date	FR Cite
NPRM.....	10/02/89	54 FR 40395
NPRM Comment Period End.	12/18/89	

Action	Date	FR Cite
Next Action Undetermined		

Small Entities Affected: Businesses.
Government Levels Affected: None.
Agency Contact:

Michael Jamroz, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2372.

Title: Disclosure and Analysis of Mutual Funds Performance Information; Portfolio Manager Disclosure.

RIN: 3235-AD81 (Final).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 80a-29(b); 15 U.S.C. 80a-37(a); 15 U.S.C. 80a-30.
CFR Citation: 17 CFR 274.11A; 17 CFR 230.485(b); 17 CFR 270.34b-1; 17 CFR 270.31a-1; 17 CFR 270.31a-2; 17 CFR 239.23.

Legal Deadline: None.

Abstract: The Commission has proposed amendments to the disclosure requirements for mutual funds, that would include alternative amendments for providing investors information about the investment results achieved by funds. The first proposal would require management to discuss and analyze the mutual fund's performance during its previous fiscal year and the techniques used to achieve that performance in light of the fund's objectives. The second proposal would require a comparison of fund performance over certain time periods to the performance of an appropriate securities index over the same periods. The proposed amendments also would require disclosure about persons who significantly contribute to the investment advice relied on by funds. Finally, the proposed amendments would shorten and simplify the per share table contained in the prospectus.

Timetable:

Action	Date	FR cite
NPRM.....	01/16/90	55 FR 1460
NPRM Comment Period End.	03/12/90	
Final Action.....	09/00/92	

Small Entities Affected: Businesses.
Government Levels Affected:
Undetermined.

RIN: 3235-AD81.

Title: Disclosure and Analysis of Mutual Funds Performance Information; Portfolio Manager Disclosure.

Agency Contact:

Robert E. Plaze, Assistant Director, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2107.

Title: Regulation A.

RIN: 3235-AD88 (Proposed).

Legal Authority: 15 U.S.C. 77c(b).

CFR Citation: 17 CFR 230.251; 17 CFR 230.252; 17 CFR 230.253; 17 CFR 230.254; 17 CFR 230.255; 17 CFR 230.256; 17 CFR 230.257; 17 CFR 230.258; 17 CFR 230.259; 17 CFR 230.260; 17 CFR 230.261; 17 CFR 230.262; 17 CFR 230.263; 17 CFR 230.264.
Legal Deadline: None.

Abstract: Regulation A provides a general exemption from registration requirements of the Securities Act. The Division of Corporation Finance is reviewing Regulation A for purposes of possible modernization. Upon completion of this review, the Division will consider whether to recommend that the Commission propose amendments to this Regulation.

Timetable:

Action	Date	FR cite
NPRM.....	03/20/92	57 FR 9768
NPRM Comment Period End.	06/18/92	

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Richard K. Wulff, Chief, Office of Small Business Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2644.

Title: Comprehensive Study of the Investment Company Act of 1940.

RIN: 3235-AD89 (Prerule).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 77s(a); 15 U.S.C. 80b-11(a); 15 U.S.C. 80a-37; 15 U.S.C. 78w.

CFR Citation: None.

Legal Deadline: None.

Abstract: The Division of Investment Management, has undertaken a comprehensive study of the Investment Company Act of 1940 in an effort to modernize the existing regulatory structure governing investment companies. The study will consider a broad range of issues including: possible alternative regulatory structures for certain investment vehicles; corporate governance; distribution; securitization of assets; internationalization of the securities markets; issues arising under the Securities Act of 1933; issues related to tax law; issues related to the entry of

banks into the investment company business; insurance products; and other matters.

Timetable:

Action	Date	FR cite
ANPRM.....	06/21/90	55 FR 25322
ANPRM Comment Period End.	10/10/90	55 FR 32098
Next Action Undetermined		

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Matthew A. Chambers, Associate Director, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2048.

Title: Summary Prospectuses.

RIN: 3235-AD90 (Final).

Legal Authority: 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s.

CFR Citation: 17 CFR 230; 17 CFR 239.

Legal Deadline: None.

Abstract: The Commission has proposed amendments to Rule 431 under the Securities Act of 1933 which would revise the issuer criteria and pre-filing requirements for use of summary prospectuses. Further, the information requirements applicable to summary prospectuses are proposed to be amended to include a summary of management's discussion and analysis of the issuer's financial condition and results of operations and disclosure regarding the risks associated with investment in the securities being offered.

Timetable:

Action	Date	FR cite
NPRM.....	06/27/90	55 FR 26212
NPRM Comment Period End.	09/15/90	
Next Action Undetermined		

Small Entities Affected: None.

Government Levels Affected: None.

Agency Contact:

Martin Dunn, Attorney Adviser, Office of Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2573.

Title: Rulemaking for Investment Company Filing on Operational EDGAR System.

RIN: 3235-AD92 (Proposed).

Significance: Agency Priority.

Legal Authority: 15 U.S.C 77a to 77aa; 15 U.S.C 78a to 78jj; 15 U.S.C 80a-1 to 80a-52; 15 U.S.C 80b-1 to 80b-21.

CFR Citation: 17 CFR 270; 17 CFR 274; 17 CFR 275; 17 CFR 249.

Legal Deadline: None

Abstract: The Division of Investment Management intends to recommend that the Commission issue a release requesting public comment on proposed rule and form amendments to implement the operational phase of the EDGAR system to the extent EDGAR involves filings by investment companies, business development companies, and institutional investment managers.

Timetable:

Action	Date	FR cite
NPRM	06/00/92	

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Ruth Sanders, Attorney, Office of Disclosure Policy and Review, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-7714.

Title: Proposed Amendments to Rule 6c-9 and Form N-6C9 Under the Investment Company Act of 1940.

RIN: 3235-AD93 (Completed).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-37(a).

CFR Citation: 17 CFR 270.6c-9; 17 CFR 274.304.

Legal Deadline: None.

Abstract: The Commission proposed to modify Rule 6c-9 and Form N-6C9 to: (1) make the rule available for the offer and sale of securities beyond the debt and non-voting preferred stock currently permitted under the rule; (2) make the rule available to a broader range of issuers than the foreign banks and their finance subsidiaries now permitted under the rule; and (3) ease the filing requirements for Form N-6C9. Such modifications would have made the rule available under some circumstances in which issuers would have had to file exemptive applications under section 6(c) of the Investment Company Act of 1940. These proposals were withdrawn and a new rule, Rule 3a-6, was adopted instead. Rule 3a-6 is not subject to the Regulatory Flexibility Act because it has been certified not to have a significant impact on a substantial number of small entities.

Timetable:

Action	Date	FR cite
NPRM	08/23/90	55 FR 34569.
NPRM Comment Period End.	11/21/90	
Withdrawn	11/04/91	56 FR 56294.

Small Entities Affected: None.

Government Levels Affected: None.

RIN: 3235-AD93.

Title: Proposed Amendments to Rule 6c-9 and Form N-6C9 Under the Investment Company Act of 1940.

Agency Contact:

Eric Freed, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-3042.

Title: Initiation or Resumption of Quotations Without Specified Information.

RIN: 3235-AD94 (Final).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 78w; 15 U.S.C. 78c; 15 U.S.C. 78j(b); 15 U.S.C. 78o(c); 15 U.S.C. 78q(a); 15 U.S.C. 78w(a).

CFR Citation: 17 CFR 240.15c2-11.

Legal Deadline: None.

Abstract: Rule 15c2-11 governs the submission and publication of quotations by brokers or dealers for certain over-the-counter securities. Currently, the rule applies principally to the initiation or resumption of quotations in the National Daily Quotation Service, which is also known as the "pink sheets." The Commission has proposed amendments to the rule that would substantially narrow the piggyback exception so that self-piggybacking would be excepted under defined conditions and every broker-dealer generally would be required to obtain and review the specified information before submitting a quotation for a covered security. An additional amendment would encourage the creation of one or more central information repositories by permitting broker-dealers, under certain conditions, to rely on the presence of required issuer information in such a repository instead of maintaining those files internally. The amendments would further the Commission's efforts to combat fraud and manipulative conduct in the penny stock market.

Timetable:

Action	Date	FR cite
NPRM	04/25/91	56 FR 19158
NPRM Comment Period End.	01/01/92	
Next Action Undetermined.		

Small Entities Affected: Businesses.
Government Levels Affected: None.
RIN: 3235-AD94.

Title: Initiation or Resumption of Quotations Without Specified Information.

Agency Contact:

Nancy J. Sanow, Assistant Director, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2848.

Title: Special Provisions as to Age of Financial Statements for Foreign Private Issuers Under Regulation S-X.

RIN: 3235-AD96 (Final).

Legal Authority: 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C. 77a(25); 15 U.S.C. 77a(26); 15 U.S.C. 781; 15 U.S.C. 78n; 15 U.S.C. 78o(d); 15 U.S.C. 78w(a); 15 U.S.C. 79e(b); 15 U.S.C. 79n; 15 U.S.C. 79k(a); 15 U.S.C. 80a-8.

CFR Citation: 17 CFR 210.3-19.

Legal Deadline: None.

Abstract: The Commission has proposed revisions to Rule 3-19 of Regulation S-X which would accommodate offerings of securities by foreign issuers that customarily prepare financial information only on a semi-annual basis.

Timetable:

Action	Date	FR cite
NPRM	06/14/91	56 FR 27562.
NPRM Comment Period End.	07/15/91	
Next Action Undetermined.		

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Additional Information: 15 U.S.C. 80a-29.

Agency Contact:

Robert A. Bayless, Chief Accountant, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2553.

Title: International Tender and Exchange Offers.

RIN: 3235-AD97 (Final).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 77b; 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C. 77sss; 15 U.S.C. 78c; 15 U.S.C. 781; 15 U.S.C. 78m; 15 U.S.C. 78n; 15 U.S.C. 78o; 15 U.S.C. 78w; 15 U.S.C. 79t; 15 U.S.C. 80a-37.

CFR Citation: 17 CFR 200; 17 CFR 230; 17 CFR 239; 17 CFR 240; 17 CFR 260.

Legal Deadline: None.

Abstract: The Commission issued for comment rule proposals to facilitate the extension of international tender offers to U.S. holders. The proposed rules would provide exemptions from the tender offer rules, securities registration and reporting requirements, and trust indenture provisions, as well as allow the registration of foreign exchange offers on the basis of foreign disclosure.

Timetable:

Action	Date	FR cite
ANPRM.....	06/12/90	55 FR 23751.
ANPRM Comment Period End.	09/21/90	
NPRM.....	06/14/91	56 FR 27582.
NPRM Comment Period End.	09/09/91	
Next Action Undetermined.		

Small Entities Affected: None.

Government Levels Affected: Undetermined.

Agency Contact:

David Sirignano, Chief, Office of Tender Offers, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-3097.

Title: Rulemaking for Public Utility Holding Companies Filing on Operational EDGAR System.

RIN: 3235-AD98 (Proposed).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 79c; 15 U.S.C. 79t.

CFR Citation: 17 CFR 250; 17 CFR 259. Legal Deadline: None.

Abstract: The Division of Investment Management intends to recommend that the Commission issue a release requesting public comment on proposed rule and form amendments to implement the operational phase of the EDGAR System to the extent EDGAR involves filings under the Public Utility Holding Company Act of 1935.

Timetable:

Action	Date	FR cite
NPRM.....	06/00/92	

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Agency Contact:

Mary Kay Frech, Attorney, Office of Public Utility Regulation, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-7648.

Title: Stabilizing to Facilitate a Distribution.

RIN: 3235-AE11 (Final).

Legal Authority: 15 U.S.C. 78i(a)(6); 15 U.S.C. 78j(b); 15 U.S.C. 78q(a); 15 U.S.C. 78w(a); 15 U.S.C. 78dd(a).

CFR Citation: 17 CFR 240.10b-7.

Legal Deadline: None.

Abstract: The Commission has proposed amendments to Rule 10b-7, which regulates stabilizing activities to facilitate an offering. The proposed amendments would permit the stabilizing price in an offering of a foreign security to reflect the price of the security in the foreign market that is the principal market for such security, if the stabilizing activity otherwise complies with the rule. Adjustments of stabilizing bids based on exchange rate fluctuations between the currencies of the markets on which the security is being stabilized would also be permitted. The amendments would also deem foreign stabilizing transactions during an offering of a foreign security in the U.S. made in compliance with comparable foreign regulations not to be in violation of Rule 10b-7.

Timetable:

Action	Date	FR cite
NPRM.....	01/09/91	56 FR 814
NPRM Comment Period End.	02/25/91	
Next Action Undetermined		

Small Entities Affected: None.

Government Levels Affected: None.

RIN: 3235-AE11.

Title: Stabilizing to Facilitate a Distribution.

Agency Contact:

Nancy J. Sanow, Assistant Director, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2848.

Title: Proxy Rules.

RIN: 3235-AE12 (Proposed).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 78n; 15

U.S.C. 78w.

CFR Citation: 17 CFR 240.

Legal Deadline: None.

Abstract: On June 17, 1991, the Commission proposed several amendments to its proxy rules designed to facilitate securityholder communications in furtherance of informed proxy voting and reduce compliance costs for all persons engaged in a proxy solicitation. On November 20, 1991, upon receipt of more

than 600 comment letters, the Commission announced plans to reissue these proposals for further public comment before taking final action. The proposed amendments would: (1) create a new exemption from proxy filing and disclosure obligations for communications by securityholders and other persons in response to solicitations by management or third parties, subject to Rule 14a-9; (2) expand access to securityholder lists; (3) eliminate the preliminary filing requirement for all proxy soliciting materials except the written proxy statement; and (4) require any proxy materials filed in preliminary form to be made public immediately upon filing rather than affording non-public status to such materials. The Commission also will consider whether to propose, in connection with the reproposal, revisions to present rules (Cont).

Timetable:

Action	Date	FR cite
NPRM.....	06/25/91	56 FR 28987.
NPRM Comment Period Extended.	07/10/91	56 FR 31349.
NPRM Comment Period End.	08/09/91	
NPRM Comment Period Extended to.	09/23/91	
Next Action Undetermined.		

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

RIN: 3235-AE12.

Title: Proxy Rules.

Additional Information: Abstract Cont: governing disclosure of executive compensation. Because these proposals are the result of the Commission's ongoing proxy review, further rule proposals may be forthcoming relating to such issues as: increased securityholder access to issuer proxy materials; confidential proxy voting and independent third-party tabulation; and issuer communications with beneficial holders.

Agency Contact:

Catherine T. Dixon, Chief, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2589.

Title: Disclosure of Legal Proceedings Involving Management, Promoters, Control Persons and Others.

RIN: 3235-AE14 (Completed).

Legal Authority: 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C. 781; 15 U.S.C. 78m; 15 U.S.C. 78n; 15 U.S.C. 78o; 15 U.S.C. 78w; 15 U.S.C. 80a-8(b); 15 U.S.C. 80a-20(a); 15 U.S.C. 80a-37(a).

CFR Citation: 17 CFR 229.401; 17 CFR 230.610a; 17 CFR 239.90; 17 CFR 240.13d-101; 17 CFR 240.13e-100; 17 CFR 240.14d-100; 17 CFR 270.20a-1; 17 CFR 274.11a; 17 CFR 274.11a-1; 17 CFR 274.11b; 17 CFR 274.11c; 17 CFR 274.5; 17 CFR 274.12; 17 CFR 274.13; 17 CFR 274.14.

Legal Deadline: None.

Abstract: The Division of Corporation Finance is no longer considering whether to recommend that the Commission propose amendments that would expand disclosure requirements relating to legal proceedings involving executive officers, directors, persons nominated to become directors, promoters, significant shareholders, participants in proxy election contests, and designated others in order to provide investors additional background information regarding these persons.

Timetable:

Action	Date	FR cite
Withdrawn.....	04/16/92	

Small Entities Affected: Undetermined.

Government Levels Affected: Undetermined.

Agency Contact:

James R. Budge, Attorney, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2589.

Title: Definitions Principally Relating to International Transactions.

RIN: 3235-AE15 (Final).

Legal Authority: 15 U.S.C. 78b; 15 U.S.C. 78c(b); 15 U.S.C. 78w(a).

CFR Citation: 17 CFR 240.

Legal Deadline: None.

Abstract: The Commission has proposed Rule 3b-10, which defines certain terms principally relating to international transactions, because the Commission believes it is advisable and appropriate to adopt general definitions of terms relevant to the increasing internationalization of world securities markets rather than adopt identical definitions in the context of individual rulemaking proposals.

Timetable:

Action	Date	FR cite
NPRM.....	01/09/91	56 FR 820
NPRM Comment Period End.....	02/25/91	
Next Action Undetermined		

Small Entities Affected: None.

Government Levels Affected: None.

Agency Contact:

Nancy J. Sanow, Assistant Director, Office of Trading Practices, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2848.

Title: Rescission of Temporary Rules Providing Exemptions to Certain Money Market Funds and Other Persons and Companies.

RIN: 3235-AE16 (Completed).

Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-37(a).

CFR Citation: 17 CFR 270.6c-4(T); 17 CFR 270.6c-5(T).

Legal Deadline: None.

Abstract: The Commission rescinded Rule 6c-4(T) and Rule 6c-5(T), that were adopted primarily to provide exemptive relief to certain money market funds under the Investment Company Act of 1940 and the rules thereunder in response to credit control regulations issued, and later terminated, by the Board of Governors of the Federal Reserve System during 1980.

Timetable:

Action	Date	FR Cite
NPRM.....	05/24/91	56 FR 23821
NPRM Comment Period End.....	06/24/91	
Final Action.....	11/01/91	56 FR 56154
Final Action Effective	11/01/91	56 FR 56154

Small Entities Affected: None.

Government Levels Affected: None.

Agency Contact:

W. Thomas Conner, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2107.

Title: Tax Exempt Money Market Fund Rule Proposals.

RIN: 3235-AE17 (Proposed).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 80a-2(a)(41); 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-33(b)(1); 15 U.S.C. 80a-34(b); 15 U.S.C. 80a-38(a); 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77s; 15 U.S.C. 78m; 15 U.S.C. 78n; 15 U.S.C. 78w; 15 U.S.C. 80a-37

CFR Citation: 17 CFR 230.482; 17 CFR 239.15A; 17 CFR 270.34b-1; 17 CFR 274.11A; 17 CFR 274.11c; 17 CFR 270.2a-7.

Legal Deadline: None.

Abstract: The proposals would address the problems caused by developments in the money markets since 1983. The Division of Investment Management will be reviewing the conditions of Rule 2a-7 applicable to tax exempt funds and considering whether any recommendations should be made to the Commission to modify those conditions. In connection with this project, the Division will also make recommendation to the Commission concerning proposed amendments to Rules 134, 436, and 482 under the Securities Act of 1933. The amendments, if adopted, would permit money market funds to use in their prospectuses a security rating assigned by a nationally recognized statistical rating organization (NRSRO) without first obtaining the NRSRO's consent to being named pursuant to Section 7 of the Securities Act.

Timetable:

Action	Date	FR Cite
NPRM.....	06/00/92	

Small Entities Affected: Businesses. Government Levels Affected: Local, State, Federal.

Agency Contact:

Eli Nathans, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-3021.

Title: Designation of Orders as "Solicited" and "Unsolicited".

RIN: 3235-AE18 (Prerule).

Legal Authority: 15 U.S.C. 78q.

CFR Citation: 17 CFR 240.17a-3; 17 CFR 240.17a-4.

Legal Deadline: None.

Abstract: The Division of Market Regulation anticipates recommending that the Commission propose amendments to Rules 17a-3 and 17a-4 that would require records relating to customer brokerage orders and dealer transactions to be marked to reflect whether that are "solicited" or "unsolicited." The proposed amendments would provide the Commission and securities self-regulatory organizations with information that would facilitate the enforcement of cases involving penny stock fraud and serve generally to promote compliance with customer suitability requirements and facilitate

supervision by securities firms of sales practices.

Timetable:

Next action undetermined	Date	FR cite

Small Entities Affected:

Undetermined.

Government Levels Affected: None.

Agency Contact:

Karen Buck Burgess, Deputy Chief Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 504-2418.

Title: Acceptance of Signature Guarantees From Eligible Guarantor Institutions.

RIN: 3235-AE19 (Completed).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 78c; 15 U.S.C. 78q; 15 U.S.C. 78q-1; 15 U.S.C. 78w(a).

CFR Citation: 15 CFR 240.17Ad-15; 15 CFR 204.17Ad-15.

Legal Deadline: None.

Abstract: Section 206 of the Securities Enforcement Remedies and Penny Stock Reform Act provides that a registered transfer agent may not, directly or indirectly, engage in any activity in connection with the guarantee of a signature of an endorser of a security, including the acceptance or rejection of such guarantee, in contravention of Commission rules prescribed to facilitate the equitable treatment of financial institutions which issue such guarantees. Pursuant to Section 206 of the Reform Act, the Commission adopted Rule 17 Ad-15 in Securities Exchange Act Release No. 30146.

Timetable:

Action	Date	FR cite
NPRM.....	09/16/91	56 FR 46748
NPRM Comment Period End.	10/31/91	
Final Action.....	01/06/92	57 FR 1082
Final Action Effective.	02/24/92	57 FR 1082

Small Entities Affected: Businesses.
Government Levels Affected: None.

RIN: 3235-AE19.

Title: Acceptance of Signature Guarantees From Eligible Guarantor Institutions.

Agency Contact: Anthony Bosch, Attorney, Branch of Transfer Agent Regulation, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2775.

Title: Notice of Assumption or Termination of Transfer Agent Services.

RIN: 3235-AE20 (Final).

Legal Authority: 15 U.S.C. 78c; 15 U.S.C. 78q; 15 U.S.C. 78q-1; 15 U.S.C. 78w(a).

CFR Citation: 17 CFR 240.17Ad-16.

Legal Deadline: None.

Abstract: The Commission proposed for comment Rule 17Ad-16 under the Securities Exchange Act of 1934. Rule 17Ad-16, if adopted would require a transfer agent to provide written notice to securities depositories when terminating or assuming transfer agent services on behalf of an issuer or when changing its name or address. The proposed rule would address a continuing problem affecting prompt securities certificate transfer and increase the efficiency of the National System for the Clearance Settlement of Securities Transactions as set forth in Section 17A of the Act. Transfer agents with no name or address changes and with no change in the issues for which they provide services will not be affected by this rule and will not need to file a notice. The Division expects a majority of small transfer agents and in-house transfer agents to fall into this category. Compliance costs would be minimal for transfer agents even when the rule applies. A transfer agent that changes its name or address or terminated or assumes transfer agent services on behalf of an issue need only file a short notice with one of three registered securities depositories explaining the change.

Timetable:

Action	Date	FR cite
ANPRM.....	01/06/92	57 FR 1128
ANPRM Comment Period End.	02/10/92	
Next Action Undetermined		

Small Entities Affected: None.

Government Levels Affected: None.

RIN: 3235-AE20.

Title: Notice of Assumption or Termination of Transfer Agent Services.

Agency Contact:

Anthony Bosch, Attorney, Branch of Transfer Agent Regulation, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2775.

Title: Penny Stock Disclosure Rules.

RIN: 3235-AE21 (Final).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 78c.

CFR Citation: 17 CFR 240.3a51-1; 17 CFR 240.15g-1; 17 CFR 240.15g-2; 17 CFR 240.15g-3; 17 CFR 240.15g-4; 17 CFR

240.15g-5; 17 CFR 240.15g-6; 17 CFR 240.15g-7.

Legal Deadline: NPRM, Statutory, April 15, 1991. (rule on market-making status only)

Abstract: The Commission has proposed disclosure rules involving penny stock transactions as required by the Securities Enforcement Remedies and Penny Stock Reform Act of 1990. The rules, which will supplement Rule 15c2-6, the Commission's cold-calling rule, are proposed in response to problems of fraud and manipulation involving abusive sales tactics in the penny stock market. Then rules define penny stock, and set forth the requirements for a risk disclosure document, disclosure of compensation of broker-dealers and associated persons, disclosure of quotations, and account statements. In addition to the rules required under the Penny Stock Act, the Commission has proposed a rule requiring disclosure of market-making status with respect to transactions in penny stock.

Timetable:

Action	Date	FR cite
NPRM.....	04/25/91	56 FR 19148
NPRM Comment Period End.	07/19/91	
Next Action Undetermined		

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: None.

RIN: 3235-AE21.

Title: Penny Stock Disclosure Rules.

Agency Contact:

Robert L. D. Colby, Chief Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2844.

Title: Amendments to Rule 3a12-8.

RIN: 3235-AE22 (Completed).

Legal Authority: 15 U.S.C. 78c(a)(12).

CFR Citation: 17 CFR 240.3a12-8.

Legal Deadline: None.

Abstract: The Commission adopted amendments to Rule 3a12-8 under the Securities Exchange Act that designated sovereign debt issued by the Republic of Ireland and Italy as exempted securities under the Securities Exchange Act solely for the purpose of marketing and trading futures on those securities in the United States. Section 2(a)(1)(8)(v) of the Commodity Exchange Act prohibits futures trading on an individual security, unless the security is an exempted security. Unlike U.S. government securities, the sovereign debt obligations

of foreign governments are not exempt from the Securities Act or the Securities Exchange Act. Accordingly, the Commission promulgated Rule 3a12-8 to designate certain foreign government securities as exempted securities to permit exchange-traded futures contracts on these securities to be marketed in the United States. Because of recent interest by U.S. investors in purchasing futures on Irish and Italian government securities, the Division recommended that the Commission propose amendments to 3a12-8 that would treat sovereign debt issued by the Republics of Ireland and Italy as exempted securities for the purpose of futures (cont).

Timetable:

Action	Date	FR Cite
NPRM Comment Period End.....	12/18/91	56 FR 58194.
Final Action.....	1/14/92	57 FR 1375.
Final Action Effective.	1/14/92	57 FR 1375.

Small Entities Affected: None.

Government Levels Affected: None.
RIN: 3235-AE22.

Title: Amendments to Rule 3a12-8.

Additional Information: Abstract

Cont: trading with respect to those instruments. The Commission also amended Rule 3a12-8 to change "West Germany" to "Federal Republic of Germany," the formal name of the reunified East and West Germany, and to replace all the references made to the informal names of the countries listed in the Rule with references to their official names.

Agency Contact:

Monica Michelizzi, Staff Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington DC 20549, 202 272-2411.

Title: Multijurisdictional Disclosure with the United Kingdom.

RIN: 3235-AE23 (Prerule).

Legal Authority: 15 U.S.C. 77e; 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s(a); 15 U.S.C. 77ddd; 15 U.S.C. 77eee; 15 U.S.C. 77fff; 15 U.S.C. 78c(b); 15 U.S.C. 78j; 15 U.S.C. 78i; 15 U.S.C. 78m; 15 U.S.C. 78w; 15 U.S.C. 78x.

CFR Citation: 17 CFR 210; 17 CFR 230; 17 CFR 240; 17 CFR 249; 17 CFR 260.

Legal Deadline: None.

Abstract: The Division of Corporation

Finance is engaged in preliminary discussions with officials from the International Stock Exchange with a view towards possibly recommending to the Commission a proposal for a multijurisdictional disclosure system

with the United Kingdom similar to that adopted involving Canada.

Timetable: Next Action

Undetermined.

Small Entities Affected:

Undetermined.

Government Levels Affected: None.

Agency Contact:

Richard M. Kosnik, Chief, International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-3246.

Title: Review of Rule 30d-1 Under the Investment Company Act of 1940.

RIN: 3235-AE24 (Completed).

Legal Authority: 15 U.S.C. 77g; 15

U.S.C. 77h; 15 U.S.C. 77s(a); 15 U.S.C.

80a-8; 15 U.S.C. 80a-29(d); 15 U.S.C.

80a-30(c); 15 U.S.C. 80a-37(a).

CFR Citation: 17 CFR 270.30d-1.

Legal Deadline: None.

Abstract: Review of Rule 30d-1 under the Investment Company Act of 1940

(Reports to stockholders of management companies) was begun by the Division of Investment Management on January 23, 1991. The Division completed the review on November 27, 1991.

Timetable:

Action	Date	FR Cite
Begin Review	1/23/91	
End Review	11/27/91	

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact:

Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: Review of Rule 3c-2 Under the Investment Company Act of 1940.

RIN: 3235-AE25 (Completed).

Legal Authority: 15 U.S.C. 80a-6(c); 15

U.S.C. 80a-37(a).

CFR Citation: 17 CFR 270.3c-2.

Legal Deadline: None.

Abstract: Review of Rule 3c-2 under the Investment Company Act of 1940

(Definition of beneficial ownership in small business investment companies) was completed on November 27, 1991.

Timetable:

Action	Date	FR Cite
Begin Review	1/23/91	
End Review	11/27/91	

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact:

Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: Review of Rule 7d-1 Under the Investment Company Act of 1940.

RIN: 3235-AE26 (Completed).

Legal Authority: 15 U.S.C. 80a-7(d); 15

U.S.C. 80a-37(a).

CFR Citation: 17 CFR 270.7d-1.

Legal Deadline: None.

Abstract: Review of Rule 7d-1 under the Investment Company Act of 1940 (regarding conditions and arrangements for Canadian management investment companies seeking permission to register) was completed by the Division of Investment Management on November 27, 1991.

Timetable:

Action	Date	FR Cite
Begin Review	1/23/91	
End Review	11/27/91	

Small Entities Affected:

Undetermined.

Government Levels Affected: None.

Agency Contact:

Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: Review of Rule 3a-2 Under the Investment Company Act of 1940.

RIN: 3235-AE27 (Prerule).

Legal Authority: 15 U.S.C. 80a-6(c); 15

U.S.C. 80a-39(a).

CFR Citation: 17 CFR 270.3a-2.

Legal Deadline: None.

Abstract: Review of Rule 3a-2 under the Investment Company Act of 1940

(Transient investment companies) was begun by the Division of Investment Management on January 23, 1991. The Division expects to complete the review by September 30, 1992.

Timetable:

Action	Date	FR cite
Begin Review	01/23/91	
End Review	09/00/92	

Small Entities Affected:

Undetermined.

Government Levels Affected: None.

Agency Contact:

Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange

Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: Review of Rule 30b2-1 Under the Investment Company Act of 1940.
 RIN: 3235-AE28 (Completed).
 Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-29; 15 U.S.C. 80a-37.
 CFR Citation: 17 CFR 270.30b2-1.
 Legal Deadline: None.
 Abstract: Review of Rule 30b2-1 under the Investment Company Act of 1940 (Filing of copies of reports to stockholders) was completed by the Division of Investment Management on January 7, 1992.

Timetable:

Action	Date	FR cite
Begin Review	01/23/91	
End Review	01/07/92	

Small Entities Affected: Undetermined.

Government Levels Affected: None.
 Agency Contact:

Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: Review of Rule 3a-3 Under the Investment Company Act of 1940.
 RIN: 3235-AE29 (Prerule).
 Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-38(a).
 CFR Citation: 17 CFR 270.3a-3.
 Legal Deadline: None.

Abstract: Review of Rule 3a-3 under the Investment Company Act of 1940 (Certain investment companies owned by companies which are not investment companies) was begun by the Division of Investment Management on January 23, 1991. The Division expects to complete the review by September 30, 1992.

Timetable:

Action	Date	FR cite
Begin Review	01/23/91	
End Review	09/00/92	

Small Entities Affected: Undetermined.

Government Levels Affected: None.
 Agency Contact:

Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: Review of Rule 17a-7 Under the Investment Company Act of 1940.

RIN: 3235-AE30 (Completed).
 Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-37(a).

CFR Citation: 17 CFR 270.17a-7.
 Legal Deadline: None.

Abstract: Review of Rule 17a-7 under the Investment Company Act of 1940 (Exemption of certain purchase or sale transactions between an investment company and certain affiliated persons thereof) was completed by the Division of Investment Management on November 27, 1991.

Timetable:

Action	Date	FR Cite
Begin Review	01/23/91	
End Review	11/27/91	

Small Entities Affected: Undetermined.

Government Levels Affected: None.
 Agency Contact:

Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: Review of Rule 30d-2 Under the Investment Company Act of 1940.
 RIN: 3235-AE31 (Completed).
 Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-27; 15 U.S.C. 80a-37.
 CFR Citation: 17 CFR 270.30d-2.
 Legal Deadline: None.

Abstract: Review of Rule 30d-2 under the Investment Company Act of 1940 (Reports to shareholders of unit investment trusts) was completed by the Division of Investment Management on November 27, 1991.

Timetable:

Action	Date	FR Cite
Begin Review	01/23/91	
End Review	11/27/91	

Small Entities Affected: Businesses.
 Government Levels Affected: None.
 Agency Contact:

Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: Review of Rule 16a-1 Under the Investment Company Act of 1940.

RIN: 3235-AE32 (Prerule)
 Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-37(a).

CFR Citation: 17 CFR 270.16a-1.
 Legal Deadline: None.

Abstract: Review of Rule 16a-1 under the Investment Company Act of 1940 (Exemption of directors of registered

accounts from election requirement) was begun by the Division of Investment Management on January 23, 1991. The Division expects to complete the review by September 30, 1992.

Timetable:

Action	Date	FR Cite
Begin Review	1/23/91	
End Review	9/00/92	

Small Entities Affected: Undetermined.

Government Levels Affected: None.
 Agency Contact:

Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: Review of Rule 57b-1 Under the Investment Company Act of 1940.

RIN: 3235-AE33 (Completed).
 Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-37(a); 15 U.S.C. 80a-58.
 CFR Citation: 17 CFR 270.57b-1.
 Legal Deadline: None.

Abstract: Review of Rule 57b-1 under the Investment Company Act of 1940 (Exemption for downstream affiliates of business development companies) was completed by the Division of Investment Management on November 27, 1991.

Timetable:

Action	Date	FR cite
Begin Review	1/23/91	
End Review	11/27/91	

Small Entities Affected: Businesses.
 Government Levels Affected: None.
 Agency Contact:

Carolyn A. Miller, Division of Investment Management, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: Review of Rule 3a-1 Under the Investment Company Act of 1940.

RIN: 3235-AE34 (Prerule).
 Legal Authority: 15 U.S.C. 80a-37(a).
 CFR Citation: 17 CFR 270.3a-1.
 Legal Deadline: None.

Abstract: Review of Rule 3a-1 under the Investment Company Act of 1940 (Certain prima facie investment companies) was begun by the Division of Investment Management on January 23, 1991. The Division expects to complete the review by September 30, 1992.

Timetable:

Action	Date	FR cite
Begin Review	1/23/91	
End Review	9/00/92	

Small Entities Affected:

Undetermined.

Government Levels Affected: None.

Agency Contact:

Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: Review of Rule 60a-1 Under the Investment Company Act of 1940.

RIN: 3235-AE35 (Completed).

Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-37(a); 15 U.S.C. 80a-58.

CFR Citation: 17 CFR 270.60a-1.

Legal Deadline: None.

Abstract: Review of Rule 60a-1 under the Investment Company Act of 1940 (Exemption for certain business development companies) was completed on November 27, 1991.

Timetable:

Action	Date	FR cite
Begin Review	1/23/91	
End Review	11/27/91	

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact:

Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: Review of Form N-1 Registration Statement of Open-End Management Investment Company.

RIN: 3235-AE36 (Prerule).

Legal Authority: 15 U.S.C. 77j; 15 U.S.C. 77a(a); 15 U.S.C. 80a-37(a).

CFR Citation: 17 CFR 274.11; 17 CFR 239.15.

Legal Deadline: None.

Abstract: Review of Form N-1

(Registration statement for open end management investment companies) was begun by the Division of Investment Management on January 23, 1991. The Division expects to complete the review by September 30, 1992.

Timetable:

Action	Date	FR Cite
Begin Review	01/23/91	
End Review	09/00/92	

Small Entities Affected:

Undetermined.

Government Levels Affected: None.

Agency Contact:

Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: Review of Rule 180 Under the Securities Act of 1933.

RIN: 3235-AE37 (Prerule).

Legal Authority: 15 U.S.C. 77c(a)(2).

CFR Citation: 17 CFR 230.180.

Legal Deadline: None.

Abstract: Review of Rule 180 under the Securities Act of 1933 (Exemption of registration of interests and participations issued in connection with certain H.R. 10 plans) was begun by the Division of Investment Management on January 23, 1991. The Division expects to complete the review by September 30, 1992.

Timetable:

Action	Date	FR Cite
Begin Review	01/23/91	
End Review	09/00/92	

Small Entities Affected:

Undetermined.

Government Levels Affected: None.

Agency Contact:

Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: Rules to Reflect Amendments to Securities Exchange Act of 1934 Regarding Shareholder Communications.

RIN: 3235-AE38 (Completed).

Legal Authority: 15 U.S.C. 78n(b); 15 U.S.C. 78n(c).

CFR Citation: 17 CFR 240.14a-13; 17

CFR 240.14b-1; 17 CFR 240.14b-2; 17

CFR 240.14c-1; 17 CFR 240.14c-2; 17 CFR

240.14c-7.

Legal Deadline: None.

Abstract: The Commission adopted rules to implement the Shareholder Communications Improvement Act of 1990 by requiring: (1) Investment companies registered under the Investment Company Act of 1940 to distribute information statements to shareholders in connection with a shareholder meeting where proxies, consents or authorizations are not distributed by or on behalf of the registrant; and (2) brokers and banks that hold shares for beneficial owners of securities in nominee name to forward to the beneficial owners the proxy statements of Investment Company Act registrants as well as the information

statements of both Investment Company Act registrants and companies with a class of securities registered under Section 12 of the Securities Exchange Act of 1934.

Timetable:

Action	Date	FR Cite
NPRM	08/22/91	56 FR 41635
NPRM Comment Period End.	10/07/91	
Final Action—the amendments are effective with (cont).	01/10/92	57 FR 1096
Final Action Effective.	01/10/92	

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Sectors Affected: None.

RIN: 3235-AE38.

Title: Rules to Reflect Amendments to Securities Exchange Act of 1934 Regarding Shareholder Communications.

Additional Information: (Description, Cont): respect to shareholder meetings held, or corporate actions taken by consent or authorization, on or after March 31, 1992, that have a record date on or after February 10, 1992.

Agency Contact:

Elizabeth M. Murphy, Special Counsel, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2589.

Title: Notice By SRO of Proposed Admission to or Continuance in Membership With Any Person Subject to a Statutory Disqualification.

RIN: 3235-AE39 (Prerule).

Legal Authority: 15 U.S.C. 78f; 15 U.S.C. 78o; 15 U.S.C. 78o-3; 15 U.S.C. 78o-4; 15 U.S.C. 78q; 15 U.S.C. 78q-1; 15 U.S.C. 78g; 15 U.S.C. 78w.

CFR Citation: 17 CFR 240.19h-1.

Legal Deadline: None.

Abstract: The Division of Market Regulation anticipates recommending to the Commission amendments to Rule 19h-1, which requires self-regulatory organizations ("SROs") to submit to the Commission filings whenever a person subject to a statutory disqualification, as defined in Section 3(a)(39) of the Securities Exchange Act of 1934, seeks to become associated with or to continue his/her association with a broker-dealer that is a member of an SRO. Congress recently amended the definition of statutory disqualification to include, among other things, convictions

for any felony within the last ten years and disciplinary actions taken by foreign governmental entities and SROs. The proposed amendments will address the recent changes in the definition of statutory disqualification and other areas of the rule that experience has shown can be simplified and improved.

Timetable: Next Action

Undetermined.

Small Entities Affected: None.

Government Levels Affected: None.

Agency Contact:

Lance Alworth, Jr., Staff Attorney,
Division of Market Regulation,
Securities and Exchange Commission,
450 5th Street NW., Washington, DC
20549, 202 504-2506.

Title: Prohibiting Other Purchases
During Tender Offer or Exchange Offer.

RIN: 3235-AE40 (Completed).

Legal Authority: 15 U.S.C. 78j; 15
U.S.C. 78m; 15 U.S.C. 78n; 15 U.S.C.
78dd(a).

CFR Citation: 17 CFR 240.10b-13.

Legal Deadline: None.

Abstract: At present, the Division of
Market Regulation is withdrawing from
consideration the redesignation of Rule
10b-13 as Rule 14e-5.

Timetable:

Action	Date	FR Cite
Withdrawn.....	4/16/92	

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Nancy J. Sanow, Assistant Director,
Office of Trading Practices, Securities
and Exchange Commission, Division
of Market Regulation, 450 5th Street
NW., Washington, DC 20549, 202 272-
2848.

Title: Definition of "Short Sale".

RIN: 3235-AE41 (Prerule).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 78b; 15
U.S.C. 78j(a); 15 U.S.C. 78dd(a).

CFR Citation: 17 CFR 240.3b-3; 17 CFR
240.10a-1.

Legal Deadline: None.

Abstract: The Division of Market
Regulation is considering recommending
that the Commission amend Rule 10a-1,
which prohibits short sales under
certain circumstances. The proposals
would provide an exemption to permit
specialists to equalize the opening price
of a foreign security on a U.S. exchange
with its price in the principal foreign
market, to exclude from application of
the rule transactions in non-convertible
corporate bonds effected on an

exchange, and to codify a no-action
position relating to certain liquidations
of index arbitrage positions. The
amendments, if proposed, also would
clarify Rule 3b-3's definition of
ownership of a security.

Timetable: Next Action

Undetermined.

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Nancy J. Sanow, Assistant Director,
Office of Trading Practices, Securities
and Exchange Commission, Division
of Market Regulation, 450 5th Street
NW., Washington, DC 20549, 202 272-
2848.

Title: Large Trader Reporting System.

RIN: 3235-AE42 (Final).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 77c; 15

U.S.C. 77d; 15 U.S.C. 77s; 15 U.S.C. 77ttt;

15 U.S.C. 78c; 15 U.S.C. 78d; 15 U.S.C.

78i; 15 U.S.C. 78j; 15 U.S.C. 78l; 15 U.S.C.

78m; 15 U.S.C. 78n; 15 U.S.C. 78o; 15

U.S.C. 78p; 15 U.S.C. 78s; 15 U.S.C. 78w.

CFR Citation: 17 CFR 240.13h-1.

Legal Deadline: None.

Abstract: The Commission has
released for comment proposed Rule
13h-1 pursuant to the Market Reform
Act of 1990. Rule 13h-1 would require
large traders to disclose accounts and
affiliations to the Commission, and
would require broker-dealers to
maintain and report large trader account
and transaction records to the
Commission.

Timetable:

Action	Date	FR cite
NPRM.....	08/28/91	56 FR 42550
NPRM Comment Period End.	01/06/92	
Next Action Undetermined		

Small Entities Affected: None.

Government Levels Affected:

Undetermined.

Additional Information: 15 U.S.C. 78x;

15 U.S.C. 79q; 15 U.S.C. 79t; 15 U.S.C.

80a-29; 15 U.S.C. 80a-37.

Agency Contact:

Nicholas T. Chapekis, Special Counsel,
Securities and Exchange Commission,
Division of Market Regulation, 450 5th
Street NW., Washington, DC 20549,
202 272-3115.

Title: Stabilizing to Facilitate a
Distribution.

RIN: 3235-AE43 (Prerule).

Legal Authority: 15 U.S.C. 78i(a)(6); 15

U.S.C. 78j(b); 15 U.S.C. 78q(a); 15 U.S.C.

78w(a); 15 U.S.C. 78dd(a).

CFR Citation: 17 CFR 240.10b-7.

Legal Deadline: None.

Abstract: The Division of Market
Regulation anticipates recommending
that the Commission publish for
comment a release proposing
amendments to Rule 10b-7, which
governs stabilizing to facilitate an
offering. The proposed amendments
would modify the distinction that the
rule makes between securities for which
the principal market is a securities
exchange and securities traded in the
over-the-counter market. The release
would also codify certain interpretive
positions regarding the persons who
may rely on the rule and the type of
offerings covered by the rule. Finally,
the provisions of the rule would be
restructured and simplified.

Timetable: Next Action

Undetermined.

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Nancy J. Sanow, Assistant Director,
Office of Trading Practices, Securities
and Exchange Commission, Division
of Market Regulation, 450 5th Street
NW., Washington, DC 20549, 202 272-
2848.

Title: Temporary Risk Assessment
Recordkeeping and Reporting

Requirements for Brokers and Dealers.

RIN: 3235-AE44 (Proposed).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 78c; 15

U.S.C. 78j; 15 U.S.C. 78o; 15 U.S.C. 78q;

15 U.S.C. 78w; 15 U.S.C. 78dd.

CFR Citation: 17 CFR 240.17h-1T; 17
CFR 240.17h-2T.

Legal Deadline: None.

Abstract: On August 30, 1991, the
Commission proposed for comment rules
17h-1T and 17h-2T pursuant to the risk
assessment section of the Market
Reform Act of 1990. Proposed rule 17h-
1T sets forth the recordkeeping
requirements for broker-dealers with
respect to certain material associated
persons. Proposed rule 17h-2T sets forth
the reporting requirements for broker-
dealers with respect to risk assessment.

Timetable:

Action	Date	FR cite
NPRM.....	09/06/91	56 FR 44014
NPRM Comment Period End.	12/02/92	

Small Entities Affected: None.

Government Levels Affected: None.

Agency Contact:

Roger G. Coffin, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-7375.

Title: Roll-up Transactions.

RIN: 3235-AE45 (Completed).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 77f to 77h;

15 U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C. 78n(a); 15 U.S.C. 78n(c); 15 U.S.C. 78n(e); 15 U.S.C. 78w(a); 15 U.S.C. 77aa; 15 U.S.C. 781; 15 U.S.C. 78m; 15 U.S.C. 78o; 15 U.S.C. 79e; 15 U.S.C. 79n; 15 U.S.C. 79i; 15 U.S.C. 78n.

CFR Citation: 17 CFR 229, (Revision); 17 CFR 239.25, (Revision); 17 CFR 239.34, (Revision); 17 CFR 240.14a-6, (Revision); 17 CFR 240.14c-2, (Revision); 17 CFR 240.14e-1, (Revision); 17 CFR 210, (Revision).

Legal Deadline: None.

Abstract: The Commission adopted rules intended to enhance the quality of information provided to investors in connection with transactions involving roll-ups of limited partnerships or similar entities. The rules require heightened disclosure concerning the risks and effects of roll-up transactions, conflicts of interest, alternatives to the roll-up, fairness and other related matters. In addition separate supplements for investors in each entity subject to a roll-up and new pro forma financial information is required. The rules apply to specified transactions involving the registration of securities under the federal securities laws. The rules also impose a 60-day minimum solicitation or offering period for roll-ups (or if shorter, the maximum period permitted under state law).

Timetable:

Action	Date	FR cite
NPRM	06/25/91	56 FR 28962
NPRM Comment Period End	08/09/91	
Final Action Final rules adopted	10/30/91	56 FR 57237
Final Action Effective	10/30/91	

Small Entities Affected: None.

Government Levels Affected: None.

RIN: 3235-AE45.

Title: Roll-up Transactions.

Agency Contact:

Meredith B. Cross, Attorney Fellow, Office of Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2573.

Title: Amendments to Investment Company Registration Forms.

RIN: 3235-AE46 (Proposed).

Legal Authority: 15 U.S.C. 77a et seq; 15 U.S.C. 80a-1 et seq.

CFR Citation: 17 CFR 239.23; 17 CFR 239.15A; 17 CFR 274.11A; 17 CFR 239.17a; 17 CFR 274.11b; 17 CFR 239.17b; 17 CFR 274.11c.

Legal Deadline: None.

Abstract: In February 1991 the District Court of the Southern District of New York issued a decision interpreting Form N-1A, the registration form used by open-end management investment companies to register under the Investment Company Act and to register their securities under the Securities Act of 1933. The court held that disclosure concerning a fund policy of "freezing" time for the purpose of measuring sales load under a contingent deferred sales loan arrangement when a shareholder transferred funds to an affiliated money market fund did not have to be disclosed in the fund's prospectus. The Commission will consider what impact this decision has on its program of full disclosure and what amendments to Form N-1A and similar forms are warranted in light of this impact.

Timetable:

Action	Date	FR cite
NPRM	04/00/92	

Small Entities Affected: None.

Government Levels Affected: None.

Agency Contact:

W. Thomas Conner, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2107.

Title: Proposed Amendments to Rule 12d3-1 Under the Investment Company Act of 1940.

RIN: 3235-AE47 (Proposed).

Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-37.

CFR Citation: 17 CFR 270.12d3-1.

Legal Deadline: None.

Abstract: The Commission had proposed, and received comments on, amendments to rule 12d3-1 that would facilitate the acquisition by investment companies of the equity securities of foreign securities firms. The Division of Investment Management withdrew the proposal RIN: 3235-AD19 from the Unified Agenda to consider it in the context of a comprehensive study of the Investment Company Act of 1940. The staff is again considering the proposal as a separate rulemaking proposal.

Timetable:

Action	Date	FR cite
NPRM Proposed Amendments to Rule 12d3-1 under the Inv. Co. Act 1940.	08/11/89	
NPRM	06/00/92	

Small Entities Affected: Undetermined.

Government Levels Affected: Undetermined.

Agency Contact:

Robert G. Bagnall, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2048.

Title: Amendments to Form N-SAR.

RIN: 3235-AE48 (Completed).

Legal Authority: 15 U.S.C. 80a-1 et seq.

CFR Citation: 17 CFR 274.101.

Legal Deadline: None.

Abstract: The Division of Investment Management is no longer considering whether to recommend that the Commission revise form N-SAR, the semiannual report for registered investment companies.

Timetable:

Action	Date	FR cite
Withdrawn	04/16/92	

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Agency Contact:

Carolyn A. Miller, Senior Financial Analyst, Office of Financial Analysis & Inspections, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: Form BD, for Application for Registration as a Broker and Dealer or to Amend or Supplement Such an Application.

RIN: 3235-AE49 (Proposed).

Significance: Regulatory Program.

Legal Authority: 15 U.S.C. 78o; 15 U.S.C. 78o-5; 15 U.S.C. 78q; 15 U.S.C. 78w.

CFR Citation: 17 CFR 249.501.

(Revision); 17 CFR 240.15b1-1.

Legal Deadline: None.

Abstract: Form BD would be amended to clarify and simplify the instructions and the schedules to the form and to reflect the amendments to the federal securities laws made by the Securities Enforcement Remedies and Penny Stock Reform Act and the International

Securities Enforcement Cooperation Act of 1990.

Timetable:

Action	Date	FR Cite
ANPRM	08/16/91	56 FR 44029
ANPRM Comment	09/30/91	
Period End.		
Next Action		
Undetermined		

Small Entities Affected: Businesses.
Government Levels Affected: State.
Agency Contact:

Belinda Blaine, Attorney, Office of Chief Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 504-2418.

Title: Public Disclosure of Material Short Security Positions (subject matter; not title of regulation).

RIN: 3235-AE50 (Completed).

Legal Authority: 15 U.S.C. 78j(a); 15 U.S.C. 78j(b); 15 U.S.C. 78o(c); 15 U.S.C. 78w(a).

CFR Citation: 17 CFR 240.10b-1 et seq; 17 CFR 240.13a-1 et seq.

Legal Deadline: None.

Abstract: The Division of Market Regulation is withdrawing from consideration certain proposals seeking comment on whether the Commission should adopt a rule that would require public reporting of material short positions in publicly-traded companies in a manner analogous to the current reporting requirement for material long security positions.

Timetable:

Action	Date	FR cite
ANPRM	06/13/91	56 FR 27280
ANPRM Comment	09/15/91	
Period End.		
Withdrawn	04/16/92	

Small Entities Affected: Undetermined.

Government Levels Affected: Undetermined.

Agency Contact:

M. Blair Corkran, Senior Special Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2853.

Title: Securities Transactions Exempt From Transaction Fees.

RIN: 3235-AE52 (Final).

Legal Authority: 15 U.S.C. 78a et seq.

CFR Citation: 17 CFR 240.31-1.

Legal Deadline: None.

Abstract: Many transactions occurring after regular trading hours involve portfolio trades. These transactions,

when executed overseas, currently may be exempt from Section 31 transaction fees pursuant to Rule 31-1(e). The amendment to Rule 31-1, as proposed by the Commission, would provide a limited exemption from the payment of Section 31 fees for sales involving 15 securities or more at one aggregate price occurring on or off an exchange in listed securities after regular trading hours. By aligning the fee exemption for after hours portfolio trading to match the treatment for overseas trading, the proposal should promote the public interest and equal protection of markets because it will remove an incentive for executing these trades overseas. The proposal provides an exemption from the payment of fees for certain securities transactions. The impact on Section 31 fees received by the Commission should be minimal if the off-hours trading systems accomplish their purpose of attracting after-hours overseas order flow currently exempt from fees.

Timetable:

Action	Date	FR cite
NPRM	06/03/91	56 FR 25056
NPRM Comment	07/03/91	
Period End.		
Next Action		
Undetermined.		

Small Entities Affected: None.

Government Levels Affected: None.

RIN: 3235-AE52.

Title: Securities Transactions Exempt From Transaction Fees.

Agency Contact:

Sharon Lawson, Special Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 272-2406.

Title: Statement of Financial Condition to be Filed with Application for Registration as a Broker or Dealer.

RIN: 3235-AE54 (Prerule).

Significance: Regulatory Program.

Legal Authority: 15 U.S.C. 78o; 15 U.S.C. 78o-4; 15 U.S.C. 78o-5; 15 U.S.C. 78q.

CFR Citation: 17 CFR 240.15b1-2; 17 CFR 240.15Ca2-2; 17 CFR 240.15Ba2-2(b).

Legal Deadline: None.

Abstract: In connection with Commission's plan to coordinate the broker-dealer registration process with the Central Registration Depository, the Division of Market Regulation anticipates recommending to the Commission amendments to Rules 15b1-2, 15Ca2-2 and 15Ba2-2(b) under the Securities Exchange Act of 1934. The amendments would eliminate the

requirement that applicants for broker-dealer registration file a statement of financial condition and representations regarding their financial resources as part of their applications on Form BD. The rules of the self-regulatory organizations currently require broker-dealers to file a statement of financial condition (or to otherwise demonstrate their financial ability to conduct business as a broker-dealer) with their applications for membership.

Timetable:

Next Action Undetermined.

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Belinda Blaine, Attorney, Office of Chief Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 504-2418.

Title: Amendments to Confirmation Requirements of Rule 10b-10.

RIN: 3235-AE55 (Completed).

Legal Authority: 15 U.S.C. 78c; 15 U.S.C. 78i; 15 U.S.C. 78j; 15 U.S.C. 78k; 15 U.S.C. 78o; 15 U.S.C. 78q; 15 U.S.C. 78w

CFR Citation: 17 CFR 240.10b-10.

Legal Deadline: None.

Abstract: The Division of Market Regulation is withdrawing from consideration of certain amendments to Rule 10b-10 under the Exchange Act. The amendments would have clarified the application of the Rule to introducing and clearing firms; clarified the Rule's application to distributions of securities subject to contingencies; clarified the Rule's application to repurchase and reverse purchase transactions; and modified the yield disclosure requirements for certain debt securities that are collateralized by receivables subject to prepayment risks. In addition, the amendments would have required certain disclosures concerning whether a customer's account is carried by a broker-dealer that is a member of the Securities Investor Protection Corporation, as well as codifying existing staff interpretations allowing dividend reinvestment plans to follow quarter confirmation procedures.

Timetable:

Action	Date	FR cite
Withdrawn	04/16/92	

Small Entities Affected: Businesses.
Government Levels Affected: None.
RIN: 3235-AE55.

Title: Amendments to Confirmation Requirements of Rule 10b-10.

Agency Contact:

Caroline Bartman, Attorney, Office of Chief Counsel, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street NW., Washington, DC 20549, 202 504-2418.

Title: American Depository Receipts.

RIN: 3235-AE57 (Prerule).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 77b; 15

U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C. 78c; 15 U.S.C. 78i; 15 U.S.C. 78j; 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78n; 15 U.S.C. 78o; 15 U.S.C. 78q.

CFR Citation: 17 CFR 230; 17 CFR 239; 17 CFR 240.

Legal Deadline: None.

Abstract: The Commission has issued a release requesting information and comment with regard to the functioning and characteristics of the American depository receipt marketplace, as well as with regard to various regulatory issues under the federal securities laws, including whether any changes to the registration process are necessary or appropriate and questions relating to duplication of facilities in 1991.

Timetable:

Action	Date	FR cite
ANPRM	05/23/91	56 FR 24420
ANPRM Comment Period End.	09/30/91	

Timetable:

Action	Date	FR cite
NPRM	03/20/92	57 FR 9768
NPRM Comment Period End.	06/18/92	

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Richard K. Wulff, Chief, Office of Small Business Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2644.

Title: + Exemption for Subsidiaries Organized to Finance Operations of Domestic or Foreign Companies.

RIN: 3235-AE95 (Proposed).

Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-37(a).

CFR Citation: 17 CFR 270.3a-5.

Legal Deadline: None.

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose amendments to rule 3a-5 to permit finance subsidiaries of United States banks and insurance companies to rely on the rule. Expanding the coverage of the exemptive rule could reduce regulatory burdens otherwise present.

Timetable:

Action	Date	FR cite
NPRM	09/00/92	

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Rochelle G. Kauffman, Senior Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20459, 202 272-2048.

Title: + Rules 603(a) and 606 of Regulation E.

RIN: 3235-AE96 (Proposed).

Legal Authority: 15 U.S.C. 77c(c); 15 U.S.C. 80a-37.

CFR Citation: 17 CFR 230.603(a); 17 CFR 230.606.

Legal Deadline: None.

Abstract: The Commission has proposed amendments to Regulation E to: (1) increase from \$5 million to \$15 million the aggregate offering price of all securities of small business investment companies that may be sold within a 12-month period; and (2) increase the aggregate offering price of securities of a

small business investment company or a business development company that may be sold by a security holder from \$100,000 to \$1.5 million.

Timetable:

Action	Date	FR cite
NPRM	03/20/92	57 FR 9825
NPRM Comment Period End.	05/19/92	

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Kathleen K. Clarke, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2107.

Title: + Rule 6c-10 Under the Investment Company Act of 1940 and Amendment to Item 2 of Form N-1A Under the Securities Act of 1933.

RIN: 3235-AE97 (Final).

Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-22; 15 U.S.C. 80a-37(a); 15 U.S.C. 80a-39; 15 U.S.C. 77a et seq.

CFR Citation: 17 CFR 270.6c-10; 17 CFR 239.15A.

Legal Deadline: None.

Abstract: The Commission had proposed, and received comments on, new Rule 6c-10 under the Investment Company Act of 1940 which would provide a registered open-end management investment company, other than a registered insurance company separate account, and certain related persons with exemptions from the Act to the extent necessary to permit the fund to impose sales loads on a deferred basis. The Commission had also proposed amendments to Form N-1A, the registration statement for funds to accommodate the deferred sales loads that would be permitted if Rule 6c-10 is adopted. The Division of Investment Management withdrew the proposal previous RIN: 3235-AD18 from the Unified Agenda to consider it in the context of a comprehensive study of the Act. The staff is now reconsidering the proposal as a separate rulemaking proposal.

Timetable:

Action	Date	FR cite
NPRM	11/02/88	53 FR 45275
NPRM Comment Period End.	01/09/89	53 FR 45275
Final Action	09/00/92	

Small Entities Affected: Businesses.

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Richard M. Kosnik, Chief, International Corporate Finance, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2585.

Title: + Form S-18, Optional Form for the Registration of Securities to Be Sold to the Public.

RIN: 3235-AE59 (Proposed).

Significance: Agency Priority.

Legal Authority: 15 U.S.C. 77f; 15

U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77s(a).

CFR Citation: 17 CFR 239.28.

Legal Deadline: None.

Abstract: The Commission has proposed amendments to Form S-18, the optional registration form for small issuers, that would widen the availability of this form to small businesses.

Government Levels Affected: None.
RIN: 3235-AE97.

Title: Rule 6c-10 Under the Investment Company Act of 1940 and Amendment to Item 2 of Form N-1A Under the Securities Act of 1933.

Agency Contact:
Roseanne Harford, Staff Attorney,
Securities and Exchange Commission,
Division of Investment Management,
450 5th Street NW., Washington, DC
20549, 202 272-2048.

Title: + Rule 17f-5 Under the Investment Company Act of 1940.
RIN: 3235-AE98 (Proposed).
Legal Authority: 15 U.S.C. 80a-17(f); 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-37(a).
CFR Citation: 17 CFR 270.17f-5.
Legal Deadline: None.

Abstract: Rule 17f-5 permits U.S. registered investment companies to maintain certain securities and other assets in the custody of an "eligible foreign custodian," as that term is defined in the rule. In response to comments that the present definition of eligible foreign custodian and other provisions of the rule are too restrictive, the staff is considering whether to recommend that the Commission propose amendments to the rule. This matter is a reconsideration of an item that was previously on the Unified Agenda and Withdrawn (see prior RIN: 3235-AC85).

Timetable:

Action	Date	FR cite
NPRM.....	00/00/00	

Small Entities Affected:
Undetermined.

Government Levels Affected:
Undetermined.

Agency Contact:
Elizabeth R. Krentzman, Staff Attorney,
Securities and Exchange Commission,
Division of Investment Management,
450 5th Street NW., Washington, DC
20549, 202 272-2048.

Title: + Issuance of Multiple Classes of Securities by Registered Open-End Investment Companies.

RIN: 3235-AF00 (Proposed).
Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-37(a).
CFR Citation: 17 CFR 270.18f-3 (New); 17 CFR 274.11A; 17 CFR 230.482.
Legal Deadline: None.

Abstract: The Division of Investment Management is considering whether to recommend that the Commission propose a rule that would define the conditions under which an open-end management investment company may issue multiple classes of securities

representing interests in the same portfolio. The Commission has granted several exemptions from provisions of the Investment Company Act to permit open-end investment companies to issue multiple classes of securities, with each class subject to a different distribution arrangement. The Division is considering whether to codify elements of prior exemptive orders. The rule if adopted might reduce the number of exemptive relief applications received by the Office of Investment Company Regulation.

Timetable:

Action	Date	FR cite
NPRM.....	09/00/92	

Small Entities Affected:
Undetermined.

Government Levels Affected: None.
Agency Contact:

Robert G. Bagnall, Special Counsel,
Securities and Exchange Commission,
Division of Investment Management,
450 5th Street NW., Washington, DC
20549, 202 272-2048.

Title: + Rules 2a19-2 and 2a3-1 Under the Investment Company Act of 1940.

RIN: 3235-AF01 (Proposed).
Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-37(a).
CFR Citation: 17 CFR 270.2a19-2; 17 CFR 270.2a3-1.

Legal Deadline: None.
Abstract: The Staff is considering recommending that the Commission propose rules providing, under appropriate conditions, comparable treatment for investment companies organized as limited partnerships as for investment companies organized as corporations. Proposed rule 2a19-2 would exempt certain general partners of an investment company organized as a limited partnership from being considered "interested persons" of the investment company, its investment adviser, or its principal underwriter, solely on the basis of their status as partners, co-partners or directors. Proposed rule 2a3-1 would exempt certain limited partners of an investment company organized as a limited partnership from being considered "affiliated persons" of the investment company, other partners of the investment company, its investment adviser, or its principal underwriter, solely on the basis of their status as partners or co-partners. This item is a reconsideration of an item that was previously on the Unified Agenda and withdrawn (see prior RIN: 3235-AD83).

These rules, if adopted, should eliminate the need for certain limited partnership investment companies to file (cont)
Timetable:

Action	Date	FR cite
NPRM.....	05/00/92	

Small Entities Affected:
Undetermined.

Government Levels Affected:
Undetermined.

RIN: 3235-AF01
Title: Rules 2a19-2 and 2a3-1 Under the Investment Company Act of 1940.
Additional Information: Abstract Cont: individual exemptive applications and their attendant costs, and make it easier for venture capital funds and other pooled investment vehicles to function as limited partnership investment companies under the Investment Company Act.

Agency Contact:
Edward J. Rubenstein, Attorney,
Securities and Exchange Commission,
Division of Investment Management,
450 5th Street NW., Washington, DC
20549, 202 272-2048.

Title: + Review of Rules 0-2 Through 0-7 Under the Investment Advisers Act of 1940.

RIN: 3235-AF13 (Prerule).
Legal Authority: 15 U.S.C. 77s; 15 U.S.C. 78w; 15 U.S.C. 77ss; 15 U.S.C. 80a-37; 15 U.S.C. 79c; 15 U.S.C. 79f; 15 U.S.C. 77eee; 15 U.S.C. 77ggg; 15 U.S.C. 77nnn; 15 U.S.C. 77sss.

Legal Deadline: None.
Abstract: Ten-year review of rules under the Investment Advisers Act to be completed by year's end.

Timetable:

Action	Date	FR Cite
Begin Review.....	1/27/92	
End Review.....	12/00/92	

Small Entities Affected:
Undetermined.

Government Levels Affected: None.
Agency Contact:

Carolyn A. Miller, Senior Financial Analyst, Securities and Exchange Commission, Division of Investment Management, 450 5th Street NW., Washington, DC 20549, 202 272-2762.

Title: + Disclosure of Executive Compensation.

RIN: 3235-AF34 (Prerule).
Legal Authority: 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C. 781; 15 U.S.C.

78m; 15 U.S.C. 78n; 15 U.S.C. 78o; 15 U.S.C. 78w.

CFR Citation: 17 CFR 229.402; 17 CFR 240.14a-101.

Legal Deadline: None.

Abstract: The Division of Corporation Finance is considering whether to recommend that the Commission propose amendments to change the disclosure requirements concerning executive compensation.

Timetable: Next Action

Undetermined.

Small Entities Affected:

Undetermined.

Government Levels Affected:

Undetermined.

Agency Contact:

Brian Lane, Special Counsel, Office of Disclosure Policy, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street NW., Washington, DC 20549, 202 272-2589.

[FR Doc. 92-0965 Filed 4-29-92; 8:45 am]

BILLING CODE 8010-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

RIN 3067-AB86

Disaster Assistance; Eligibility of Private Nonprofit Facilities

AGENCY: Federal Emergency
Management Agency, (FEMA).

ACTION: Proposed rule.

SUMMARY: FEMA proposes to make changes to the eligibility of private nonprofit facilities for disaster assistance grants made under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). The change conforms disaster assistance to the intent of the Stafford Act, and eliminates some applicants which have received assistance in the past.

DATES: Comments from the public are encouraged and will be accepted until June 29, 1992.

ADDRESSES: Send written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Assistant Associate Director for Disaster Assistance Programs, room 705, 500 C Street SW., Washington, DC 20472, (202) 646-3615.

SUPPLEMENTARY INFORMATION: Under the Disaster Relief Act of 1974, 42 U.S.C.

5121 *et seq.*, the legislation under which the disaster assistance program operated prior to the Stafford Act, grants could be made to certain private nonprofit (PNP) organizations for the repair of facilities damaged by a major disaster. Under that act private nonprofit facilities were defined as "educational, utility, emergency, medical, and custodial care facilities." Actually, the authority to provide Federal disaster assistance to private nonprofit medical care facilities was enacted by Public Law 92-209 in 1971, and disaster aid for PNP educational facilities was authorized by Public Law 92-385 in 1972. The remaining three types of facilities became eligible in 1974.

Hearings held after the 1971 San Fernando earthquake in California discussed the need for restoration of two private nonprofit hospitals to maintain the area's overall public and private medical resources. As a result of the hearings, PNP hospitals were made eligible for assistance by Public Law 92-209 in 1971.

Assistance for private nonprofit educational facilities was authorized by Public Law 92-385 after Hurricane Agnes struck in the mid-Atlantic states in 1972. The rationale for the change was that the facilities performed a "secular educational mission" comparable to public educational institutions and that if they were not repaired and restored, public educational institutions would have to bear the cost of educating students who had attended the PNP facilities.

Thus, Congress believed restoration of both PNP medical and educational facilities was necessary because of the public function which they served. Utility, emergency, and custodial care facilities were added with the passage of Public Law 93-288 in 1974.

After the 1985 floods in Pennsylvania, Virginia, and West Virginia, interest was focused on some private nonprofit organizations which served as community centers and provided similar governmental functions but did not receive the majority of their support from governmental sources. Under FEMA regulations implementing section 102(6) of the Disaster Relief Act of 1974 they were not "public entities", and thus were not eligible for FEMA public assistance.

Subsequently, the Stafford Act added a new category of PNP facility eligible for assistance. This category was "facilities which provide essential services of a governmental nature to the general public." The law contains no further definition of what is included in this category. However, in House Report

No. 100-517, 100th Congress 2nd Session, to accompany H.R. 2707 (the bill which became the Stafford Act), examples of eligible facilities are listed as: "museums, zoos, community centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities and shelter workshops." The House and Senate floor debates of this bill contain only one reference to this provision. Mr. Stangeland, on October 21, 1988, stated: "We have added the term 'essential services of a governmental nature to the general public' to provide flexibility, *not to encourage unsupported, broad-reaching expansions of the definition.*" (134 Cong. Rec. H10853) (Emphasis added)

Since passage of the Stafford Act, FEMA has attempted to apply those criteria to PNP eligibility in approximately 90 major disaster declarations. The legislative history has been interpreted by FEMA to suggest that other types of facilities similar in nature to the facilities on the list were intended to be included. For example, theaters and other performing arts facilities have been included because they serve a function similar to museums. Recreational and day-care facilities have been provided disaster assistance because they are activities which some governmental entities provide. PNP-owned parking facilities have also been approved because some governmental entities own parking facilities. Housing for various groups, such as the elderly, low income families, or recovering drug users was determined eligible in the general category of public housing, another typical governmental function.

After the Loma Prieta earthquake in October 1989, FEMA received 391 applications from PNP organizations of all types, with approximately 300 in the new category. Of these 300, 219 were determined eligible. In other major disasters there has been a similar proportion of the new category PNP's. Many of these facilities may not be "essential" in that they do not provide services which would have to be provided by the State or local government in the absence of the PNP facility. This was the basis for adding PNP medical and educational facilities to the list of facilities eligible for Federal disaster assistance under Public Law 92-209 and Public Law 92-385. Many of the facilities assisted in recent disasters would not have been assisted under the older criteria. These "borderline" facilities provide services like job training, drug and alcohol abuse rehabilitation, family counseling, day care for children or the elderly, theaters,

dance studios, and music auditoriums. FEMA believes that these expansive eligibility determinations could be construed as the unintended expansion of the definition referred to by Congressman Stangeland in his remarks quoted above.

FEMA proposes to limit the new category of PNP eligibility only to the essential governmental services named in House Report 100-517, 100th Congress, 2nd Session, listed above. The eligible PNP facilities that carried over from the 1974 legislation would not be affected by this change. Those are educational, utility, emergency, medical, and custodial care facilities.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for the purposes of this Paperwork Reduction Act.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 206

Administrative practice and procedure; Community facilities; Disaster assistance; Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 206 is proposed to be amended as follows:

PART 206—[AMENDED]

1. The authority citation for part 206 is revised to read as follows:

Authority: 42 U.S.C. 5121 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12873, 54 FR 12571 3 CFR 1989 Comp., p. 214.

2. Section 206.221 is proposed to be amended by revising paragraph (e)(6) to read as follows:

§ 206.221 Definitions.

(e) Private nonprofit facility * * *
(6) *Other essential governmental service facility* means only museums, zoos, community centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities and shelter workshops which are open to the general public.

Dated: April 23, 1992.

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 92-10123 Filed 4-29-92; 8:45 am]

BILLING CODE 6718-02-M

44 CFR Part 206

RIN 3067-AB85

Disaster Assistance; Eligibility of Costs

AGENCY: Federal Emergency Management Agency, (FEMA).

ACTION: Proposed rule.

SUMMARY: FEMA proposes to make changes to the eligibility of costs which may be claimed in the performance of work under a disaster assistance grant made under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (Stafford Act). We propose that some of the labor costs of an applicant's regular employees performing certain disaster recovery work will not be allowable in disaster assistance claims. The change is proposed to make FEMA disaster assistance conform to the intent of the Stafford Act which is that disaster assistance be supplemental to the efforts of State and local governments.

DATES: Comments from the public are encouraged and will be accepted until June 29, 1992.

ADDRESSES: Send written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Assistant Associate Director for Disaster Assistance Programs, room 705, 500 C Street SW., Washington, DC 20472, (202) 646-3615.

SUPPLEMENTARY INFORMATION:

1. Force Account Labor Costs

Assistance to governmental entities and certain private nonprofit

organizations for disaster response and recovery activities is authorized by the following provisions of the Stafford Act: section 403 (Essential Assistance), 42 U.S.C. 5170; section 406 (Repair, Restoration, and Replacement of Damaged Facilities), 42 U.S.C. 5172; and section 407 (Debris Removal), 42 U.S.C. 5173. Assistance under the Stafford Act is intended to be supplementary to the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused by a major disaster.

When an applicant for disaster assistance performs response or recovery work using regularly employed personnel, it is using its pre-disaster existing resources. The term for this practice is "Force Account Labor." Considering just the straight or regular time salaries of these employees, there is no incremental cost to the applicant because of the disaster. This salary cost, including normal fringe benefits, would be incurred whether or not the disaster occurred. In the aftermath of a disaster, an applicant will generally perform debris clearance and emergency protective measure activities with its own regular employees. Thus, no incremental cost is incurred by an applicant for the regular time portion of those salaries of their personnel engaged in these types of activities.

However, overtime wages of regular employees, including fringe benefits, and both regular and overtime wages for extra employees hired to perform eligible work, do represent an incremental disaster related cost to the existing regular time labor resources of the applicant.

OMB Circular A-87, Principles for Determining Costs Applicable to Grants and Contracts with State, Local, and Federally Recognized Indian Tribal Governments, was issued by the Office of Management and Budget (OMB). The circular is incorporated into 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Paragraph A.1. of that circular, titled "Objectives", states in part: "The principles [of this circular] are for the purposes of cost determination and are not intended to identify the circumstances or dictate the extent of Federal and State or local participation in the financing of a particular grant."

The granting agency may determine which particular costs will be eligible for reimbursement under a grant program unless the authorizing statute provides otherwise. In particular, the

Stafford Act states that base and overtime wages of an applicant's employees, plus fringe benefits, are included in the calculation of costs eligible for assistance for permanent restoration under section 406(f)(5) of the Stafford Act, 42 U.S.C. 5172(f)(5). Therefore, although these base or straight time wages are part of existing resources and would not be assisted under a policy of providing only supplemental assistance, section 406(f)(5) of the Act specifically includes them in the calculation of costs which are to be paid.

For the reasons stated in the previous paragraphs, FEMA proposes to make the following eligibility determination for regular time salaries and wages of a subgrantee's permanent employees. When performing emergency assistance activities and debris clearance under sections 403 and 407, respectively, of the Act, regular time salaries, including fringe benefits, are not eligible for Stafford Act assistance. All reasonable labor costs incurred by an applicant's regular employees in the performance of eligible permanent restoration under section 406 of the Stafford Act are eligible pursuant to the statutory provision which is located at subsection 406(f)(5) of that Act. FEMA equipment rates to determine reimbursement for applicant-owned equipment will continue to be used for regular time and overtime use of such equipment. The eligibility of the cost of materials drawn from an applicant's stock for use on eligible projects is also unaffected by this change.

The determination of cost principles for applicants other than State and local governments for disaster assistance under the Stafford Act is covered by other OMB circulars. Educational institutions are covered by OMB Circular A-21, and Circular A-122 covers all other private nonprofit organizations except hospitals. Private nonprofit hospitals are covered by 48 CFR part 31, Contract Cost Principles and Procedures in the Federal Acquisition Regulations. The provisions in all of these Circulars and the regulation relative to objectives are essentially the same. Therefore, the discussion concerning Circular A-87 applies also to the applicable cost principles for other applicants.

2. Minimum Damage Survey Report (DSR)

FEMA has generally made it a practice to only process damage surveys when a certain threshold cost is exceeded at a single location. There are two reasons for this practice. In many instances, the damage caused by a

disaster event in any particular location will be relatively small. It often will be of the same type and magnitude as normal maintenance which is performed by an applicant. Recognizing the principle that assistance under the Stafford Act is intended to be supplemental to State and local efforts, such assistance should not supplant normal maintenance. Repair of these small amounts of damage can generally be incorporated into maintenance work without a significant increase in cost or effort.

In 1974, the Federal Disaster Assistance Administration (a component of the Department of Housing and Urban Development which was responsible for administration of the Disaster Relief Act of 1974 prior to FEMA's creation in 1979) set the minimum DSR which would be processed at \$100, and in 1981 FEMA set the minimum at \$250. This proposed rule change would set the minimum DSR at \$1000. The minimum amount would be reviewed by FEMA and adjusted as necessary on a periodic basis.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for the purposes of the Paperwork Reduction Act.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 28, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 206

Administrative practice and procedure; Community facilities; Disaster assistance; Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 206 is proposed to be amended as follows:

PART 206—[AMENDED]

1. The authority citation for part 206 continues to read as follows:

Authority: 42 U.S.C. 5121 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 54 FR 12571, 3 CFR, 1989 Comp., p. 214.

2. Section 206.202 is proposed to be amended by revising paragraph (d) and the parenthetical phrase at the end of the section to read as follows:

§ 206.202 Application procedures.

(d) *Damage Survey Reports (DSR's).*—

(1) Damage surveys are conducted by an inspection team. An authorized local representative accompanies the inspection team and is responsible for representing the applicant and ensuring that all eligible work and costs are identified. The inspectors prepare a Damage Survey Report-Data Sheet (FEMA Form 90-91), for each site. On the Damage Survey Report-Data Sheet the inspectors will identify the eligible scope of work and prepare a quantitative estimate for the eligible work. Any damage that is not shown to the inspection team during its initial visit shall be reported in writing to the RD by the Grantee within 60 days following completion of the initial visit.

(2) When the estimate of work at a damage site is less than \$1000, such work is not eligible, and a DSR will not be written. This minimum amount for a DSR shall be reviewed periodically by FEMA and adjusted as necessary.

(Approved by the Office of Management and Budget under Control Number 3067-0223, 3067-0033 and 0348-0043)

3. Section 206.228 is proposed to be amended by adding paragraph (a)(4) as follows:

§ 206.228 Allowable costs.

(a) * * *

(4) *Force account labor costs.* The straight or regular time salaries and fringe benefits of a subgrantee's permanently employed personnel are not eligible in calculating the cost of eligible work under sections 403 and 407 of the Stafford Act. For the performance of eligible permanent restoration under section 406 of the Act, straight time salaries, including fringe benefits, of a subgrantee's permanently employed personnel are eligible.

* * *

Dated: April 23, 1992.

Grant C. Peterson,

Associate Director, State and Local Programs
and Support.

[FR Doc. 92-10124 Filed 4-29-92; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 25

[CC Docket No. 88-245; DA 92-492; Rm No. 613]

Mechanism for Allocation of Unrouted Ship-to-Overseas Telex Traffic; Transmitted Via the INMARSAT Space Segment

AGENCY: Federal Communications
Commission.

ACTION: Proposed rule.

SUMMARY: This document invites interested parties to file comments to update the record in the notice of proposed rulemaking adopted May 9, 1988 and released May 20, 1988, 53 FR 20146 (June 2, 1988). In particular, comment is requested with regard to the relative volume of ship-to-overseas telex traffic that would be allocated under the proposed proportionate return mechanism. The proposed rule would employ a proportionate allocation mechanism through which Comsat would distribute unrouted ship-to-overseas telex traffic to each carrier in proportion to the volume of overseas-to-ship telex traffic transiting the United States that each carrier handles via the INMARSAT space segment. The effect of the proposed mechanism would be to provide carriers with the incentive to increase their competitive efforts.

DATES: Comments must be filed on or before May 27, 1992 and reply comments must be filed on or before June 15, 1992.

ADDRESSES: Federal Communications Commission, 1919 M St. NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Susan O'Connell, Common Carrier Bureau, (202) 632-3214.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Parts 1 and 25
Communications common carriers.

Order Inviting Comments to Supplement the Record

In the matter of allocation method for unrouted ship-to-overseas INMARSAT telex traffic

Adopted: April 16, 1992.

Released: April 24, 1992.

Comment Date: May 27, 1992.

Reply Comment Date: June 15, 1992.

By the Deputy Chief, Common Carrier
Bureau:

1. On May 20, 1988, the Commission released a notice of proposed rulemaking (NPRM) in CC Docket No. 88-245,¹ giving notice of its intention to develop a new mechanism for the allocation of unrouted² ship-to-overseas³ telex⁴ traffic transmitted over the space segment of the International Maritime Satellite Organization (INMARSAT).⁵ In the NPRM, the Commission tentatively concluded that sufficient unrouted ship-to-overseas telex traffic existed to warrant adoption of a specific allocation mechanism to distribute such traffic among carriers interconnecting with Comsat.⁶

2. Under the current rotational allocation method for unrouted ship-to-overseas telex traffic, Comsat rotates the delivery of traffic to each of the participating United States carriers in a manner that results in each carrier⁷ receiving an approximately equal share of that traffic. The Commission has proposed to replace the rotational allocation method with a proportionate return allocation mechanism under which Comsat would distribute unrouted ship-to-overseas telex traffic to each carrier in proportion to the volume of overseas-to-ship telex traffic transiting the United States that each carrier handles via the INMARSAT space segment. The Commission tentatively concluded that the proportionate return allocation

¹ Allocation Method for Unrouted Ship-to-Overseas INMARSAT Telex Traffic, 3 FCC Rcd 2654 (1988) (NPRM).

² In general, the term "unrouted traffic" refers to traffic that is not designated by the customer for handling by a particular common carrier.

³ Ship-to-overseas telex traffic is telex traffic sent via the INMARSAT space segment to an earth station in the United States and from there, via the facilities of a United States carrier, to an overseas destination. Unrouted ship-to-overseas telex traffic is traffic for which the sender has not specified a United States carrier to handle the traffic between the United States earth station and the overseas destination.

⁴ Telex refers to a customer-to-customer switched record service using telegraph-grade connecting circuits and characterized by a two-way communications capacity.

⁵ INMARSAT is an independent international organization comprised of 64 member nations. It was created to establish an international maritime satellite system to improve maritime communications for distress and safety of life at sea, public correspondence, radiodetermination and ship management.

⁶ The International Maritime Satellite Telecommunications Act, 47 U.S.C. 751-757 (1986), designates Comsat as the United States operating entity in INMARSAT.

⁷ As used herein, a participating carrier is a carrier which has entered into an interconnection agreement with Comsat for the handling of telex traffic via the INMARSAT satellite system. See NPRM, 3 FCC Rcd at 2654, n.5.

mechanism would provide an incentive for carriers to increase their competitive efforts, consistent with Commission policy.

3. We invite interested parties to update the record with regard to, *inter alia*, the relative volume of ship-to-overseas telex traffic that would be allocated under the proposed proportionate return mechanism.⁸ In particular, we also request that Comsat provide for the record current traffic data that shows the distribution of traffic exchanged with each of the International Record Carriers for the period 1988 through 1991. We request that Comsat provide such data in both the ship-to-shore and shore-to-ship directions for both domestic and United States transit traffic. Further comments are invited to update other aspects of the record as well.

4. Accordingly, it is ordered, Pursuant to §§ 0.91(g) and 0.291 of the Commission's Rules, 47 CFR 0.91(g), 0.291, that comment is invited in this proceeding.

5. It is further ordered, that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, comments shall be filed with the Secretary, Federal Communications Commission, Washington, DC 20554 on or before May 27, 1992, and reply comments shall be filed with the Secretary on or before June 15, 1992. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants wish each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. In addition, participants should file one copy of any such pleadings with the International Facilities Division, Common Carrier Bureau, room 534, 1919 M Street, NW., Washington, DC 20554. Participants should also file one copy of any documents filed in this docket with this Commission's copy contractor, The Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room, room 239, 1919 M Street, NW., Washington, DC 20554.

Federal Communications Commission.

Gerald P. Vaughan,

Deputy Chief, Common Carrier Bureau.

[FR Doc. 92-10128 Filed 4-29-92; 8:45 am]

BILLING CODE 6712-01-M

⁸ NPRM, 3 FCC Rcd at 2656, para. 17.

47 CFR Parts 64 and 68

[CC Docket No. 92-90; FCC 92-176]

Telephone Consumer Protection Act of 1991**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rules.

SUMMARY: The Commission proposes to amend parts 64 and 68 of its rules to restrict the use of automatic telephone dialing systems and telephone facsimile machines for telemarketing purposes. In addition, this rulemaking proceeding addresses issues regarding the protection of residential privacy rights from unsolicited advertising over the telephone network, generally. The rule changes are made necessary by the requirements of the Telephone Consumer Protection Act of 1991 (TCPA), which amends title II of the Communications Act of 1934 by adding section 227 and revising section 152(b). The TCPA and accompanying regulations restrict unsolicited telemarketing.

DATES: Comments must be received on or before May 26, 1992, and reply comments on or before June 25, 1992. The requirements for filing comments in a rulemaking proceeding are contained in § 1.419 of the rules, 47 CFR 1.419. Questions on how to file comments may be directed to the Commission's Consumer Assistance and Small Business Division, (202) 632-7000.

ADDRESSES: Comments shall be filed with the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Olga Madruga-Forti, Attorney, Domestic Services Branch, Domestic Facilities Division, Common Carrier Bureau, (202) 634-1832.

SUPPLEMENTARY INFORMATION: The regulatory requirements mandated by the TCPA are detailed in the Notice of Proposed Rulemaking (NPRM) in this proceeding. The NPRM, adopted April 10, 1992 and released April 17, 1992, may be examined during federal business hours in the Commission's Dockets Branch, room 230, 1919 M St., NW., Washington, DC, or purchased from the duplicating contractor, Downtown Copy Center, (202) 452-1422, 1114 21st., NW., Washington, DC 20036. The NPRM will be published in the FCC Record.

Summary of NPRM

The TCPA (Pub. L. 102-243) amends Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) by adding section 227 and revising section 152(b)

which, among other things, restricts the use of automatic telephone dialing systems and facsimile machines for telemarketing purposes. The NPRM, mandated by the statute, proposes implementing regulations and tentatively defines exemptions permitted by the statute. In essence, the TCPA:

(a) Defines automatic telephone dialing systems and the prohibitions against their use;

(b) Establishes prohibitions on the use of facsimile machines, computers or other devices to send an unsolicited advertisement to a facsimile machine;

(c) Provides that the Commission shall initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object;

(d) Establishes technical requirements on telephone facsimile machines and automatic dialing systems; and

(e) Establishes private rights of action and affirmative defenses to liability.

The Commission seeks comment on its tentative proposals to implement the provisions of the TCPA by amending part 64 of the Commission's rules to add a subpart governing the delivery of prerecorded or artificial messages, and by adding paragraphs (3) and (4) to § 68.318(c) of the rules to provide additional limitations on equipment connected to the telephone network. The Commission also seeks comments concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object.

Regulatory Flexibility Analysis

The rules proposed in this proceeding could affect the telemarketing practices of numerous businesses, including small entities. The NPRM solicits comments on any significant alternatives minimizing the impact on small entities consistent with the stated objectives. After evaluating the comments and reply comments in this proceeding, the Commission will examine further the impact of any rule changes on small entities and will set forth its findings in the final Regulatory Flexibility Analysis. The Secretary shall send a copy of this NPRM to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law 96-354, 94 Stat. 1164, 5 U.S.C. 601 et seq. (1981).

Ex Parte Presentations

This is a nonrestricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as required by Commission rules. See generally 47 CFR 1.1202, 1.1203 and 1.1206(a).

Legal Basis

Authority for this action is contained in 47 U.S.C. 151-154, 201-205 and 227; and 5 U.S.C. 553.

List of Subjects**47 CFR Part 64**

Communications common carriers, Telephone.

47 CFR Part 68

Communications common carriers, Telephone, Communications equipment, Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-10129 Filed 4-29-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE**Department of the Army****48 CFR Parts 5149 and 5152****Default for Failure To Submit Revised Delivery Schedule**

AGENCY: Department of the Army, DOD.

ACTION: Proposed rule with request for comments.

SUMMARY: The U.S. Army Communications-Electronic Command (CECOM) has requested a deviation from the Federal Acquisition Regulation clause 52.249-8, Default (Fixed-Price Supply and Service). Under the deviation, CECOM Contracting Officers (COs) will use, in addition to the FAR 52.249-8 clause, a clause entitled Default for Failure To Submit Revised Delivery Schedule. The additional clause will be only in production contracts awarded by CECOM during a three-year period.

DATES: Comments must be submitted on or before June 1, 1992.

ADDRESSES: Comments may be mailed to: Headquarters, U.S. Army Communications-Electronics Command, ATTN: AMSEL-LG-AB (Mr. James Scuro), Fort Monmouth NJ 07703-5010. Comments may be delivered to: U.S. Army Communications-Electronics Command, ATTN: Legal Office (Mr.

James Scuro), 2d Floor, CECOM Office Building, Fort Monmouth, New Jersey.

FOR FURTHER INFORMATION CONTACT: Mr. James Scuro (908) 532-1143.

SUPPLEMENTARY INFORMATION: This proposed clause will give COs at CECOM the contractual right to require a contractor to submit a proposal for a revised delivery schedule, along with documentation to support the reasonableness of the proposed schedule, within 30 days of the CO's notification. If the CO approves the revised delivery schedule, it will be incorporated into the contract as a bilateral modification. A failure by a contractor to submit such a proposal and supporting documentation within 30 days as required, or within any extension of time granted in writing by the CO, will be considered a failure to make delivery within the meaning of the Default clause and will be grounds for terminating the contract for default.

The need for this clause arises when a contractor fails to meet the contract delivery schedule, the schedule is subsequently waived by the Government, and the contractor then refuses to cooperate in the establishment of a revised contract schedule. In the absence of the proposed clause the CO is forced to unilaterally impose a delivery schedule on an uncooperative contractor and then has to show the reasonableness of that schedule if the contract is subsequently terminated for default. The proposed clause will encourage the contractor to cooperate in jointly developing a revised schedule as the contractor is in a better position to evaluate its capability and, thereby, propose a reasonable schedule.

This deviation will allow the use of the new clause for three years by CECOM. At the end of the three year period, CECOM will submit a report showing (1) the number of contracts in which the clause was included; (2) the number of times the clause was used; and (3) CECOM's assessment of the clause's benefit.

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq. requires consideration of proposed regulations on small entities. The proposed rule is consistent with the objectives of the Regulatory Flexibility Act because it will not have a significant economic impact on small entities. The proposed rule would merely require that when a contractor has not met or apparently will not meet a delivery schedule, he is required to submit a revised delivery schedule to the CO. The impact of this proposed rule will, therefore, not have a significant effect on small entities. Accordingly, CECOM has not prepared a preliminary

regulatory flexibility analysis. Comments from small entities concerning the proposed rule will be considered prior to issuance of a final rule. The Paperwork Reduction Act, Public Law 96-551, does not apply. The proposed rule would not impose any recordkeeping requirements or information collection requirements or collection of information from offerors, contractors, or members of the public which require approval of OMB under 44 U.S.C. 3501 et seq. This proposed rule is not a major rule for the purpose of Executive Order 12291.

List of Subjects in 48 CFR Parts 5149 and 5152

Government procurement, Government contracts, Defense contracts.

Therefore, it is proposed that 48 CFR chapter 51 be amended as follows:

1. A new part 5149 consisting of section 5149.1001 is added as follows:

PART 5149—TERMINATION OF CONTRACT

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DOD Directive 5000.35, and Defense FAR Supplement 201.301.

5149-1001 General.

This part authorizes the use of the clause entitled Default for Failure to Submit Revised Delivery Schedule as set forth in § 5152.249-9000 as an authorized deviation from the FAR § 5152.249-8, Default (Fixed Price Supply and Services) (Apr 84). This clause is limited in its application to production contracts to be issued by the U.S. Army Communications-Electronics Command (CECOM).

PART 5152—SOLICITATIONS PROVISIONS AND CONTRACT CLAUSES

2. The authority for part 5152 continues to read:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DOD Directive 5000.35, and Defense FAR Supplement 201.301.

3. Section 5152.249-9000 is added to read:

5152.249-9000 Default for Failure to Submit Revised Delivery Schedule (XXX 92) (AFARS) (Deviation).

(a) If at any time it appears that the contractor has not or will not meet the contract delivery schedule, or any extension thereof, the Contracting Officer shall have the right to require the contractor to submit a revised delivery schedule together with adequate documentation to support the reasonableness of the revised schedule.

The revised schedule shall provide a specific date for the delivery of each deliverable item under the contract and shall not be submitted subject to any contingencies.

(b) Unless the Contracting Officer has extended the time in writing, the contractor shall submit the revised delivery schedule within thirty (30) days after receipt of the Contracting Officer's written request for it. Such request shall not be deemed a waiver of any existing delivery schedule. The Contracting Officer shall have thirty (30) days after receipt of the contractor's response within which to approve or disapprove the contractor's revised schedule. If it is approved, the parties shall incorporate it into the contract using a bilateral modification.

(c) If the contractor fails to submit a revised delivery schedule as specified in paragraph (a) of this part, or any extension thereof, granted by the Contracting Officer, the contractor shall be deemed to have failed to make delivery within the meaning of the "Default" clause of this contract and this contract shall be subject to termination.

Kenneth L. Denton,
Army Federal Register Liaison Officer.
[FR Doc. 92-10067 Filed 4-29-92; 8:45 am]
BILLING CODE 3710-08-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217 and 227

[Docket No. 9107791179]

RIN 0648-AE12

Threatened Fish and Wildlife; Threatened Marine Reptiles; Revisions To Enhance and Facilitate Compliance With Sea Turtle Conservation Requirements Applicable to Shrimp Trawlers; Restrictions Applicable to Shrimp Trawlers and Other Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.
ACTION: Proposed rule.

SUMMARY: NMFS proposes to amend the regulations protecting sea turtles (50 CFR parts 217 and 227, subpart D). Under the Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.) and regulations implemented thereunder, it is unlawful to take sea turtles. The incidental taking of turtles during scientific research and fishing is exempted from the prohibitions in

certain specified circumstances. Shrimp trawlers in the southeastern Atlantic and Gulf of Mexico are so exempted if they employ specified measures (sea turtle conservation measures) to reduce the mortality of sea turtles incidentally taken.

The proposed amendments would strengthen the sea turtle conservation measures by: (1) Eliminating restricted tow times as an alternative to using a net equipped with an approved turtle excluder device (TED) except under certain conditions; (2) requiring the year-round use of TED-equipped nets in all areas; (3) eliminating the exemption for the rock shrimp fisheries in the Atlantic Ocean and exempting vertical-barred beam and roller trawls, bait shrimpers, and trawlers that retrieve small nets using hand-over-hand methods from the TED requirement (wing nets and skimmer trawls would also be excluded); (4) extending the regulations throughout the Atlantic Ocean and Gulf of Mexico and redefining the areas in the regulations as the Atlantic and Gulf Areas; (5) establishing procedures for restricting shrimp trawling or other types of fishing activities if found necessary to protect sea turtles; (6) enhancing enforcement by adding definitions and revising the prohibitions; (7) forbidding sale of a TED that is not an approved TED; (8) specifying generic standards applicable to all hard TEDs; (9) removing unnecessary elements from the construction requirements for the Morrison "soft" TED; and (10) clarifying allowable modifications to approved TEDs, all other modifications being prohibited.

DATES: Written comments must be received on or before July 29, 1992.

ADDRESSES: Comments on this proposed rule and requests for copies of the combination Environmental Assessment and supplemental Regulatory Impact Review/Regulatory Flexibility Analysis for this proposed rule and comments on it should be addressed to Dr. Nancy Foster, Director, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Phil Williams, NMFS National Sea Turtle Coordinator, 301-713-2322, or Charles A. Oravetz, Chief, Protected Species Program, NMFS Southeast Regional Office, 813-893-3366.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the ESA. Kemp's ridley, leatherback, and hawksbill turtles are listed as endangered.

Loggerhead and green turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered. The incidental take and mortality of these species by shrimp trawlers has been documented in the Gulf of Mexico and along the Atlantic seaboard.

NMFS issued regulations amending 50 CFR parts 217, 222, and 227 to protect endangered and threatened sea turtles on June 29, 1987 (52 FR 24244). Those regulations require shrimp trawlers 25 feet (7.6 meters (m)) or longer, trawling in offshore waters from North Carolina through Texas, to use a NMFS-approved TED in each net during certain times of the year in specific areas. Shrimp trawlers of all sizes trawling in inshore waters, and shrimp trawlers less than 25 feet (7.6 m) in length trawling in offshore waters, are required to limit their tow times to 90 minutes or use nets equipped with NMFS-approved TEDs during certain times of the year in specific areas.

The regulations were designed to reduce the mortality of sea turtles incidentally taken during shrimp trawling. NMFS-approved TEDs allow sea turtles captured by a net to escape. Tow-time restrictions limit the amount of time sea turtles are subjected to forced submergence in the nets. The regulations were based on data that indicate that commercial shrimp trawlers kill 11,000 sea turtles in the waters off the south Atlantic and Gulf of Mexico coastal states each year (Henwood and Stuntz, 1987). A recent National Academy of Sciences (NAS) study, "Decline of the Sea Turtles: Causes and Prevention" (NAS Study) (NAS, 1990), found that 11,000 sea turtle deaths each year was a conservative estimate and that such deaths could be underestimated by a factor of four.

During 1990, the sea turtle conservation regulations became effective for the first time in all southeast U.S. inshore and offshore waters. The delay in implementation was due to a series of lawsuits challenging the regulations and Congressional action in 1988, which amended the ESA to delay implementation of the regulations until May 1, 1989, and May 1, 1990, for offshore and inshore areas, respectively, except for the Canaveral Area. At this time, the regulations are in effect in inshore and offshore waters in the following areas: Gulf Area from March 1 through November 30; Atlantic Area from September 1991 through April 30, 1992, for that season, and from May 1 through August 31, ordinarily; and the

Canaveral Area and the Southwest Florida Area year-round.

In the 1988 amendments to the ESA, Congress also directed the Secretary of Commerce to contract with the NAS for an independent review of the conservation of sea turtles and the causes and significance of their mortality. In particular, the amendments required an independent NAS determination as to whether more or less stringent measures to reduce the drowning of sea turtles in shrimp nets are necessary and advisable to conserve sea turtles and where such measures should apply.

The NAS Study, released in May 1990, concluded that:

(1) Combined annual counts of nests and nesting females indicate that nesting sea turtles continue to experience population declines in most of the United States;

(2) Natural mortality factors—such as predation, parasitism, diseases, and environmental changes—are largely unquantified, so their respective impacts on sea turtle populations remain unclear;

(3) Sea turtles can be killed by several human activities, including beach manipulations (because of the effects on eggs and hatchlings), boating (because of collisions with turtles), non-shrimp fishing (because of entrapment in fishing nets and other gear), dredging, oil-rig removal, power plant operation (because of entrainment), discharge of plastics and toxic substances (because of ingestion), and shrimp trawling (because of incidental capture and drowning);

(4) Shrimp trawling kills more sea turtles than all other human activities combined;

(5) Shrimp trawling can be compatible with the conservation of sea turtles if adequate controls are placed on trawling activities, especially the mandatory use of TEDs in most places at most times of the year; and

(6) The increased use of conservation measures on a worldwide basis would help to conserve sea turtles.

Based on the NAS Study, recommendations of an *ad hoc* reviewing committee of NOAA/NMFS scientists and managers (NOAA/NMFS 1990), and the information appearing below, NMFS has concluded that the measures shrimp trawlers are currently required to employ in order to reduce the mortality of sea turtles incidentally taken in the shrimp trawl fishery are inadequate to conserve sea turtles and, accordingly, must be revised.

Moreover, there are problems with compliance and enforcement of, the

existing regulations. For example, during 1990, enforcement officers documented over 230 alleged violations of the regulations, approximately 50 percent of which involved alterations to installed TEDs. The most commonly found alterations were escape openings sewn shut, webbing flaps sewn tightly over escape openings, and elastic cords or twine installed through webbing flaps. Some of the reasons advanced by fishermen for not complying with the requirements include confusion over what constitutes an approved TED and relying on the manufacturer to provide an approved TED.

Accordingly, NMFS has determined that there is a need to amend the regulations to enhance and facilitate compliance and enforcement.

I. Proposed Revisions to Conservation Measures.

NMFS is proposing the following revisions to the conservation measures that shrimp trawlers must employ:

Elimination of Tow-Time Restrictions Except in Special Situations

The current regulations require all shrimp trawlers 25 feet (7.6 m) or longer trawling in offshore waters to use NMFS-approved TEDs in their nets during specified times of the year in specific areas. Shrimp trawlers less than 25 feet (7.6 m) in length trawling in offshore waters and all shrimp vessels trawling in inshore waters must either use NMFS-approved TEDs in their nets or limit trawl tow times (the interval from trawl doors entering the water to trawl doors being removed from the water) to 90 minutes or less during specified times of the year in specific areas.

A 90-minute tow-time limitation was selected in 1987 based on an initial NMFS evaluation of sea turtle mortalities at varying tow times and an assumption that most trawls in inshore water were generally limited to 90 minutes. NMFS data indicated that virtually no sea turtle mortality occurred during tows of 60 minutes or less. However, during tows of over 60 minutes, mortality increased substantially and in proportion to the tow time. Sea turtle mortality in tows of 60-90 minutes was 4-15 percent.

In August 1989, NMFS conducted a workshop to review the effects of tow times on sea turtle mortalities. The workshop concluded that 90-minute tows both adversely affected sea turtles and were too short to be economically feasible for commercial shrimp trawling (Stuntz and Kemmerer 1989). Additionally, a specific NMFS study to determine actual industry tow times in

inshore waters demonstrated that the assumption that most inshore tows were limited to 90 minutes was invalid. While inshore tows were not as long as those for offshore trawlers, they nonetheless were sufficiently long to cause significant turtle mortalities.

The NAS Study also concluded that 90-minute tows caused turtle mortalities and that if tow-time limits were to be allowed as an alternative to the use of TED-equipped nets, they should be limited to 40 minutes in warm-water months and 60 minutes in cold-water months. This conclusion was based partly on the reanalysis of data used in the 1989 NMFS workshop. NAS also considered sea turtle physiologists' concerns that recovery of sea turtles from near drowning might take a considerable amount of time, and the Study concluded that it is reasonable to assume the turtles, in fact, would not survive.

The NAS Study noted that limiting tow times to 40 or 60 minutes would have an adverse impact on the economics of shrimping. For example, limiting tows to 40 and 60 minutes would result in a daily loss of fishing time of 40 and 30 percent, respectively. This led to the statement in the NAS Study that "shrimpers fishing in offshore waters would catch more shrimp by using a TED than by restricting tow times to 40 minutes in warm [water] months and 60 minutes in cold [water] months."

Further, enforcement of tow-time limits is difficult and costly because it is time-consuming and requires a significant presence by Federal and state enforcement officers who must continually watch as a trawler deploys its nets, monitor the fishing activity throughout the timed tow, and finally witness retrieval of the trawls.

However, despite the high enforcement costs, tow-time limits as an alternative to using TED-equipped nets cannot be eliminated unless TEDs can be used effectively by small vessels operating offshore and by all vessels operating in inshore waters.

When the 1987 regulations were published, information on sea turtle distribution in inshore waters was limited. It has been shown that large vessels operating in offshore waters could use TED-equipped nets effectively. Fewer TEDs were then available for smaller vessels.

Since 1987, additional studies have been completed on sea turtle distribution in inshore waters. These studies (discussed below) present considerable evidence of the presence of sea turtles in inshore waters. Also, more testing of hard and soft TED-equipped

nets in inshore waters has been conducted successfully and several "soft" TEDs that do not take up deck space on small trawlers, a concern to shrimpers, have been approved by NMFS.

Presence of Sea Turtles in Inshore U.S. Atlantic Ocean

In the U.S. Atlantic (Atlantic Area), 70 to 80 percent of the inshore shrimp fishery occurs in the state waters of North Carolina. Epperly and Veischlow (1989) reported turtle sightings and captures in Pamlico and Core Sounds from aerial surveys, public sighting programs, ferry boat surveys, and cooperative efforts with fishermen. Their data provide convincing evidence that sea turtles are abundant in inshore North Carolina waters, and that those turtles are subject to being incidentally taken by trawlers.

The presence of sea turtles in other Atlantic Area inshore waters has been documented. Ehrhart (1983) conducted an inshore sea turtle census that tagged over 1,000 sea turtles in the Indian-Banana River complex on the Florida east coast. Primarily sub-adult and juvenile green and loggerhead turtles were captured, tagged, and released. The NMFS Sea Turtle Stranding and Salvage Network, in operation since 1980, also has documented the presence of sea turtles in inshore waters. From North Carolina to southeastern Florida, 944 turtles have been reported stranded on inshore beaches. Of these, 666 were loggerheads, 178 greens, 37 Kemp's ridleys, 23 leatherbacks, seven hawksbills, and 33 were not identified as to species.

NMFS recently estimated annual turtle captures and mortalities by shrimp trawlers under current regulations assuming 100-percent compliance (Henwood, *et al.* 1991). In inshore Atlantic waters, 996 turtles die in shrimp trawls under the present seasonality of the sea turtle conservation measures and allowing 90-minute tow-time limits for some vessels as an alternative to the use of TED-equipped nets. Since there is less than 100-percent compliance with the regulations, the estimates, for this reason alone, are lower than the actual number of kills.

While the conclusion in the NAS Study that NMFS estimates of turtle catch and mortality rates may underestimate true mortality rates by as much as a factor of four was not based on an evaluation of NMFS' 1990 estimate, it would be applicable to that estimate because the 1990 estimate was based on the same analytical approach used by NOAA for the 1987 estimates

(Henwood and Stuntz 1987) reviewed by the NAS.

Presence of Sea Turtles in Inshore Gulf of Mexico

Reeves and Leatherwood (1983) sighted green and Kemp's ridley turtles in the extensive Texas bay system during aerial surveys for marine mammals. Fuller and Tappan (1986) describe sightings of green and Kemp's ridley turtles within Louisiana bay waters. Gunter (1981) discusses the presence of green turtles on the grass beds in Mississippi Sound. Ogren (1989) captured, tagged, and released 354 juvenile and subadult Kemp's ridley turtles in northwest Florida inshore waters.

Reports of stranded sea turtles are received regularly from inshore beaches in the Gulf of Mexico. From 1989-1990, 765 turtles were reported stranded, of which 344 were loggerheads, 229 were greens, 129 were Kemp's ridleys, 20 were hawksbills, ten were leatherbacks, and 33 were not identified as to species.

NMFS recently estimated annual sea turtle captures and mortalities by shrimp trawlers in the Gulf of Mexico under the current regulations assuming 100-percent compliance. In inshore waters, 341 turtles die in trawls under the 90-minute tow-time limit. Again, this underestimates sea turtle mortality.

TED Testing in Inshore Waters

NMFS has conducted limited testing of TED-equipped nets in inshore waters to test the feasibility of eliminating tow-time limits as an alternative to using TED-equipped nets. In 1986, a mini-NMFS TED was tested and found to work effectively in small trawls in Mississippi Sound and inshore Texas waters. In the summer of 1990, a full-size, grid-type TED was tested in Pamlico Sound, North Carolina, and found to function properly. Also in 1990, a small, grid-type TED was tested in a 25-foot (7.6-m) headrope-length trawl in Mobile Bay, Alabama. While the latter test consisted of only six tows, no shrimp loss was observed.

Based on these tests, NMFS has determined that TEDs will work effectively in inshore waters and in small trawls. Because of this, and because of the short duration of tows necessary adequately to protect sea turtles (40 or 60 minutes), the adverse economics to the shrimp industry because of these short tow times, and the difficulty and costs of enforcing tow-time limits, NMFS proposes to eliminate tow-time restrictions under most circumstances.

Restricted Tow Times as an Alternative to the Use of TEDs When Specifically Authorized by NMFS Because of Special Environmental Conditions

Shrimp trawlers have long claimed that TED-equipped nets do not work well under certain environmental conditions. For example, some areas of North Carolina have been affected by seasonal abundances of an algae that shrimpers claim clog their TED-equipped nets, making trawling impracticable. Such conditions have been documented by NMFS to have a significant effect on the ability to trawl.

However, other claims by shrimpers as to the adverse affect of TEDs in other environmental conditions have been shown not to be valid. For example, in 1989 there was alleged to be an unusually large amount of sargassum algae in the Gulf of Mexico that shrimp trawlers claimed was clogging their TED-equipped nets. In response, NMFS conducted a survey of sargassum in the northern Gulf of Mexico and determined that very few trawl hauls were affected.

The only known alternatives to using TED-equipped nets as a means of reducing turtle mortality are to restrict tow times or to prohibit trawling. In order for there to be no turtle mortalities, trawlers utilizing limited tow times would have to adhere to tow times of no more than 40 minutes in warm-water months (April through October) and no more than 60 minutes in cold-water months (November through March).

Thus, in order to allow shrimp trawling when environmental conditions make the use of TED-equipped nets impracticable, the proposed regulations contain a procedure whereby, if NMFS finds that environmental conditions make trawling with TED-equipped nets impracticable, it may authorize tow-time restrictions as an alternative to the TED requirements. In taking such action, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator) would consult the appropriate fishery officials (state and Federal). Tow times would be limited to 40 minutes in warm-water months (April through October) and 60 minutes in cold water-months (November through March).

The compliance level needed adequately to protect sea turtles likely will be difficult to achieve since, as previously discussed, even with tow-time limits of as long as 90 minutes, industry compliance has been poor and enforcement has been difficult and costly.

Accordingly, the proposed rule has been drafted to authorize NMFS, when allowing compliance with restricted tow

times as an alternative to the use of TEDs, to impose such conditions as may be necessary to ensure protection of sea turtles at a level equal to that provided by the use of TEDs. Such conditions might include, but would not be limited to, utilizing synchronized tow times, selected spot observer coverage, or 100-percent observer coverage. For example, the observer program imposed as part of the tow-time restrictions could be similar to the observer program established for the summer flounder fishery at 56 FR 63685 (December 5, 1991). The magnitude of the environmental event, the number of vessels affected by the event, and past industry compliance would affect what conditions are imposed for a given event.

Comments are specifically requested as to how best to achieve compliance. Comments should address how the industry should fund observer costs and whether spot or full observer coverage should be required.

Comments are also specifically requested as to how vessels being adversely affected by environmental conditions should notify NMFS and how NMFS should notify those vessels as to its decisions. For example, vessel operators could notify their trade association, which would subsequently notify NMFS; or perhaps vessels could notify their state fishery agency, which would notify NMFS.

The Assistant Administrator would publish a notice in the *Federal Register* of the availability of a tow-time limit alternative, and that notice would set forth all applicable conditions and restrictions, such as the tow-time limit allowed, the geographic limits of the area where compliance is allowed, and for how long the alternative is available. An emergency notice would be effective for no more than 30 days unless renewed. Permanent tow-time restrictions would be implemented by regulatory amendment.

Restricted Tow Times as a Substitute for the Use of TEDs When Required by NMFS Because TEDs Are Ineffective

In certain situations, TEDs may be ineffective in protecting leatherback or other sea turtles. For example, in April 1991, 93 turtles were reported stranded on the Georgia coast. Thirty of the stranded turtles were leatherbacks. This is the highest total on record for the same period since stranding data have been collected. While the strandings occurred during a period when TEDs were not required, it is highly unlikely that even with 100-percent compliance with a requirement to use TED-equipped

nets, the leatherback turtles could have been saved. The leatherback turtle is the largest of all sea turtles, sometimes reaching lengths of 8 feet (2.4 m) and weights of more than 1,200 pounds (545 kg). Because of the large size of leatherbacks, most leatherbacks will not pass through an approved TED. Thus, when leatherbacks or other sea turtles are present or likely to be present, the only options may be either to prohibit shrimp fishing in the area or to impose mandatory tow-time restrictions.

Under the proposed regulations, the Assistant Administrator could require compliance with tow-time restrictions as a substitute to the TED requirements in an area where the Assistant Administrator determines that TEDs are ineffective in protecting leatherback or other sea turtles. In taking this action, the Assistant Administrator would consult with the appropriate fishery officials (state and Federal). Again, these restrictions would limit tow times to no more than 40 minutes during warm-water months and no more than 60 minutes during cold-water months. Similarly, conditions to ensure compliance and adequate protections for turtles could be imposed in association with the tow-time restrictions. The Assistant Administrator would publish a notice in the *Federal Register* of any requirement to limit tow times, and the notice would specify the maximum tow times allowed, the geographic limits of the area where compliance with the tow-time limits is required, and associated conditions, such as synchronized tow-time requirements or observer coverage requirements. The notice would also specify the period of time during which the tow-time restrictions would be in effect. The emergency notice could be in effect for no more than 30 days, unless renewed. Permanent restrictions would be implemented by regulatory amendment. Again, comments are specifically requested as to how to best achieve compliance.

Requiring Year-Round Rather Than Seasonal Use of TEDs

The current regulations generally require shrimp trawlers to use TED-equipped nets or limit tow times in the Gulf Area from March 1 through November 30 each year, in the Atlantic Area from May 1 through August 31 each year, and year-round in the Canaveral Area and Southwest Florida Areas. Seasonal rather than year-round sea turtle conservation requirements were imposed based upon the best information then available on turtle distributions and abundance, stranding records, turtle catch per unit of effort,

aerial surveys, and shrimping effort, and upon the recommendations of a working group that included representatives of both the fishing industry and environmental community. However, present data show that during those times when sea turtle conservation measures are not required, sea turtle mortalities significantly increase. In recognition of this fact, and in order to provide some level of protection while these more comprehensive conservation measures could be proposed and considered, NMFS extended the current May 1 through August 31 sea turtle conservation measures in the Atlantic Area to cover the period of September 1, 1991, through April 30, 1992 (56 FR 43713, September 4, 1991).

Sea Turtle Mortality in the Atlantic Area When Employment of Conservation Measures Is Not Required

Studies and recent events show a strong correlation between sea turtle mortality and shrimp and other bottom trawling effort along the Atlantic coast. For instance, high levels of turtle strandings in the fall and spring, when employment of conservation measures is not required, have consistently been reported from North Carolina, South Carolina, Georgia and Florida.

Murphy and Hopkins-Murphy (1989) found that the total number of sea turtle strandings in South Carolina after the opening of the shrimping season was five times as large as those found prior to the opening of the season. The change in the number of strandings was correlated to the fishery, rather than to yearly and seasonal fluctuations, because the data came from openings and closings on different dates in different years. Although this does not demonstrate a causal relationship, the correlation of large increases in strandings after the opening of the shrimping season year after year strongly suggests that shrimp trawling is responsible for the increased turtle mortality.

Sea turtle stranding data for North Carolina also show a pattern that closely tracks the State's offshore trawl fisheries. Sea turtle strandings increase in summer south of Cape Hatteras when the shrimp fleet is active (Street 1987). South of the Cape, 86 percent of the strandings during 1980-1986 occurred in areas where shrimp trawling took place from May through September. This suggests that shrimp trawls were the primary cause of strandings. However, 85 percent of the North Carolina strandings occurred north of Cape Hatteras, where a winter flounder fishery took place, suggesting that the fishery, or colder water temperature

shocks, were major causes of strandings there.

More recently, large numbers of stranded turtles led to the closure of the North Carolina summer flounder fishery in December 1990 and further indicate that turtles remain vulnerable to capture and drowning in trawls throughout most of the year from North Carolina to Florida. Between November 29 and December 7, 1990 (i.e., during a period when employment of turtle conservation measures was not required), 54 sea turtles stranded on beaches between Cape Hatteras and Ocracoke Inlet. Most were loggerheads, but eight Kemp's ridleys and three green turtles also died. Apparently, a warm-water infusion caused concentration of summer flounder, other groundfish, and sea turtles, in the nearshore waters. State waters were closed to all trawling on December 7, 1990, and were subsequently re-opened on December 26, 1990, to trawlers using TED-equipped nets.

Between October 1 and December 31, 1988, (another period during which conservation measures were not required), 171 dead turtles washed ashore in Georgia and Florida, during a period of heavy shrimping activity. This record number of strandings caused NMFS to issue emergency regulations requiring the use of TEDs in the Atlantic inshore and offshore waters of southern Georgia and Florida in statistical zones 29 and 30 (54 FR 7773, February 23, 1989). At that time, 70 Kemp's ridley turtles, a record number, and significant numbers of loggerhead and leatherback turtles stranded along the coastal beaches. These strandings were much more numerous than in the same area in 1987. The increased number of strandings were shown to coincide with an increased level of shrimp trawling (Schroeder and Maley 1989).

In April 1991, 93 sea turtles were reported stranded in Georgia just prior to May 1, the starting date of the season when sea turtle conservation measures must be employed. Thirty strandings were reported in Georgia from May 1 through May 17, and most of the carcasses were in an advanced state of decomposition, indicating they died prior to May 1.

As discussed above, NMFS recently estimated annual turtle captures and mortalities by shrimp trawlers under the current sea turtle conservation regulations assuming 100-percent compliance and 100-percent mortality of comatose turtles recovered (Henwood, et al. 1991). According to those estimates, in the Atlantic Area offshore fishery, 2,204 sea turtles are killed

annually because of shrimp trawling (2,126 of which are killed from September through April when TEDs, or limited tow times, are not required). In the Atlantic Area inshore fishery, an estimated 996 turtles are killed annually in shrimp trawls under the 90-minute tow-time limit and present seasonality of the sea turtle conservation measures. Thus, an estimated 3,200 turtles are killed annually in inshore and offshore Atlantic shrimp fisheries under the current regulations. The above studies and descriptions of events suggest that sea turtle conservation measures should be required in the Atlantic on a year-round rather than seasonal basis. This action would be consistent with the approach taken by several states.

Florida requires TEDs year-round in all state waters in most trawls. Georgia requires TEDs from April through December in waters south of 31°20'N. latitude, and from April through November in State waters north of 31°20'N. latitude. South Carolina regulations are patterned after Federal regulations except that, as with Florida, TEDs are required in certain inshore areas where the Federal regulations otherwise would allow, as an alternative, limited tow times of 90 minutes.

Directors of the State resource management agencies in Florida, Georgia, and South Carolina have repeatedly requested that NMFS increase the duration of the conservation requirements. These agencies, either all or some of which enforce state and Federal sea turtle conservation regulations, have also requested that NMFS expand the conservation measures in the Atlantic and Gulf Areas.

Accordingly, the proposed rule would require that sea turtle conservation measures (use of TEDs) be employed in all waters in the Atlantic year-round.

Sea Turtle Mortality in the Gulf of Mexico When Employment of Conservation Measures Is Not Required

The 1987 sea turtle conservation requirements for the Gulf Area were based upon several considerations, including turtle capture rate estimates, strandings data, fleet size, shrimping effort, and known turtle distribution and abundance patterns. Partly because sea turtle populations are so depleted, Gulf Area turtle capture rates were approximately 1/16 of those observed in Atlantic Area shrimp fisheries. Since the total fishing effort in the Gulf of Mexico is about 11 times greater than that in the Atlantic Area, the effect of Gulf shrimping on sea turtles is significant. As with the Atlantic Area shrimp

fisheries, NMFS has relied heavily on the scientific findings of the NAS Study in determining whether more or less restrictive regulations were necessary in the Gulf.

In addition, NMFS recently estimated annual sea turtle captures and mortalities by shrimp trawlers in the Gulf of Mexico under the current regulations assuming 100-percent compliance (Henwood, *et al.* 1991). In the Gulf offshore fishery, 819 turtles die annually; 696 of these turtles are killed in shrimp trawls during the months of December through February, when use of TED-equipped nets or limited tow times are not required. In inshore waters, 341 turtles die in trawls under the 90-minute tow-time limit. An estimated 1,160 sea turtles are killed annually in the U.S. Gulf of Mexico shrimp fisheries under the current regulations. Another consideration for evaluating the necessity for requiring the year-round use of TED-equipped nets in the Gulf is that while shrimping effort is low during winter months, tow times are extremely long because bycatch levels are low and nets need not be retrieved as often. The chance of a sea turtle surviving capture and forced submergence in trawls is significantly reduced when tow times are long.

Accordingly, the proposed rule would require use of TED-equipped nets in the Gulf Area year-round.

Extending Sea Turtle Conservation Requirements to the Rock Shrimp Fisheries

While the current regulations require the rock shrimp fisheries of the Gulf and Southwest Florida Areas to employ sea turtle conservation measures, the rock shrimp fisheries of the Canaveral and Atlantic Areas and the royal red shrimp fisheries of all Areas are exempted. This is because no incidental take of sea turtles had been documented in those fisheries and because it was believed that tow times in the rock shrimp fisheries of the Canaveral and Atlantic Areas were short.

Over the past 2 years, however, NMFS has received reports from fishermen and natural resource managers in Florida that sea turtles are captured during rock shrimp fishing in the Atlantic Area (including the current Canaveral Area) and that tow times are similar to those of the major southeastern U.S. shrimp fisheries. Aerial surveys have documented the presence of sea turtles in the Atlantic Area (including the current Canaveral Area) throughout the year (Schroeder and Thompson 1987), thus making them vulnerable to capture in shrimp trawls. Since rock shrimpers use the same trawls as used by other

shrimp fishermen, such trawls equipped with TEDs should function effectively in the rock shrimp fisheries of the Atlantic Area. (As noted below, the proposed rule would redefine the Atlantic Area to include the current Atlantic and Canaveral Areas.)

Accordingly, the proposed regulations would eliminate any exemption for the rock shrimp fisheries, thus making them subject to the same sea turtle conservation measures as the other shrimp trawl fisheries (other than the royal red shrimp fishery).

Exemptions to the Requirement to Use TEDs

The NAS Study recommended that available information on turtle distribution and fishing activity be examined to determine where and when TED and tow-time limits might be relaxed. The NAS Study noted that in 1988, 65 percent of the total offshore shrimping effort in the Gulf Area occurred in water less than 27 m deep, whereas Henwood and Stuntz (1987) reported 84 percent of the shrimping effort was in water less than 27 m deep. The NAS did not find significant statistical differences in turtle capture rates by depths, but suggested that turtle distribution appeared to be negatively correlated with depth (NAS 1990).

In response to the NAS findings and recommendations, NMFS evaluated available data on the distribution of sea turtles and offshore commercial shrimping in the Atlantic Ocean and Gulf of Mexico. The majority of the data came from aerial surveys, observations during oil platform removals, other opportunistic sighting programs, and from observers on commercial fishing vessels. Results of these analyses confirmed previous studies cited in the rulemaking record for the 1987 sea turtle conservation regulations. Loggerhead turtles were most frequently sighted in surveys. Fewer turtles were sighted in inshore waters, but this is probably a function of turtle size and water turbidity rather than lack of abundance. The greatest sighting rates occurred during the fall and winter in deeper offshore waters. This may indicate that turtles move into warmer offshore waters during these periods.

These turtle distribution and shrimp trawling data indicate that turtles are present throughout the year throughout areas where trawling occurs. In other words, whenever and wherever shrimp trawling occurs, with the one exception of trawling for royal red shrimp, sea turtles, especially loggerheads, are subject to capture.

The 1987 regulations exempted the royal red shrimp fisheries because those fisheries are conducted in 100–200 fathoms (183–366 m) of water where the bottom temperature normally is 2 to 4°C. Turtles are not present in waters that cold. NMFS has no evidence that the royal red shrimp fisheries incidentally take turtles. Thus, the proposed regulations would continue the exemption for this fishery.

In summary, based on a review of the best available information on turtles and incidental take by shrimp trawlers, no area exemptions in the Canaveral, Atlantic, Southwest Florida, or Gulf Areas are justified, other than the present exemption for the royal red shrimp fisheries.

Exemption for Shrimp Vessels That Do Not Have Power-Assisted or Mechanical-Advantage Trawl Retrieval Systems

Many relatively small boats trawling inshore for shrimp do not have power-assisted or mechanical-advantage trawl retrieval systems. Instead, they deploy and haul back their gear by hand. Their tow times are generally very short because of bycatch and bottom debris, which weigh down the trawls. Additionally, they normally use relatively small nets and tow at slow speeds. Turtle captures are probably very rare with this type of fishing, and because the tows are short, mortality is unlikely.

Larger shrimp vessels, on the other hand, normally have power winches to deploy and retrieve their trawls. This method of fishing allows the use of large or multiple nets that can be towed for many hours. For example, the average tow time for offshore vessels in the south Atlantic is about 2.5 hours and for the Gulf of Mexico it is about 4.5 hours. Vessels that do not have power or mechanical-advantage retrieval systems probably limit their tows to about 30 minutes or less.

For these reasons, NMFS proposes to exempt from the sea turtle conservation requirements (i.e., the requirement to use TED-equipped nets) shrimp trawlers that do not have power-assisted or mechanical-advantage trawl retrieval systems on board.

Exemptions for Wing Nets, Skimmer Trawls, Vertical-Barred-Beam and Roller Trawls, and Bait Shrimpers

Wing Nets (Butterfly Trawls) and Skimmer Trawls. Wing nets (butterfly trawls) use a rectangular frame that forms the mouth of the trawl. The net tapers to form a funnel to a codend where the catch collects. The nets are mounted about midships and are

lowered into the water where they are usually fished in a stationary manner. In some cases, vessels push the nets forward at a slow speed (2–3 knots). The nets are commonly used in inshore and nearshore waters in the northern Gulf of Mexico, particularly in Louisiana, and usually in the mouths of passes or rivers. Wing nets are fished continuously. The frames holding the mouth of the trawl open are left in the water and the bag or codend is dumped while the trawl is fishing. According to the Louisiana Sea Grant Cooperative Extension Service, wing nets are dumped at least every hour, and it is more common for the bag to be dumped every 30 minutes.

Skimmer trawls are similar to wing nets in that they are deployed using a frame arrangement from the side of a vessel. Skimmer trawls are usually attached to an outrigger, creating a triangle of webbing that forms the mouth of the trawl. A lead weight is attached to the webbing on the long side of the triangle to form a large rectangle or square of webbing that fishes shallow waters from the surface to the bottom. Under Alabama and Louisiana law, the dimensions of the trawl cannot exceed 16 feet (4.8 m) wide by 12 feet (3.6 m) deep. A sled, or skimming grid, is attached to the frame at its outermost point where it slides the trawl mouth across the bottom. Skimmer trawls are pushed rather than towed. Skimmer trawls catch shrimp in the same manner as other trawls, but the mouth of the net is spread by a frame arrangement rather than with trawl doors. As with wing nets, the bag is dumped at least hourly and more commonly is dumped every 30 minutes. The frequent dumping of the bag makes it unlikely that turtle mortality would occur with this type of gear.

While either a wing net or a skimmer trawl could catch a sea turtle that swims into it, the method of fishing is unlikely to harm it. The proposed regulations do not contain an explicit exemption for either wing nets or skimmer trawls because they would be exempted implicitly. Proposed § 227.72(e)(2)(i) would require that approved TEDs be installed in a net only if it is "shackled, tied, or otherwise connected to any trawl door or board, or to any tow rope or cable * * *." Since neither wing nets nor skimmer trawls are shackled to doors or boards, TEDs would not have to be installed in them.

Vertical-Barred Beam or Roller Trawls. Beam or roller trawls are similar to wing nets in that the trawl mouth is held open by a rigid frame, usually 12–16 feet (3.6–4.8 m) wide and 18–24 inches (46–61 centimeters (cm)) high, rather than by trawl doors. The trawl forms a

funnel behind the beam and tapers to a codend where the catch is deposited. The trawls are pulled along the bottom. The rigid frame in some beam and roller trawls is supplemented with rigid vertical bars spaced about 2–3 inches (5–8 cm) apart along the entire width of the beam.

Beam or roller trawls with such vertical bar configurations do not catch sea turtles because turtles cannot pass through the bars into the net.

Accordingly, an explicit exemption for beam or roller trawls whose rigid frame is equipped with rigid vertical bars spaced no more than 4 inches (10.2 cm) apart appears justified and has been included in the proposed rule.

Bait Shrimpers. Bait shrimpers may capture sea turtles. However, because bait shrimpers must keep shrimp alive for use as bait, the trawls are hauled frequently enough to prevent those turtles from drowning. The current regulations do not contain an exemption for bait shrimpers. An explicit exemption appears justified and has been included in the proposed rule. The proposed regulations would define a shrimp trawler fishing for bait as a vessel that retains all of its shrimp in a container with a circulating sea water system; that possesses dead shrimp not exceeding 5 pounds (2.27 kilograms (kg)); and that has on board an original, valid, state bait-shrimp license.

Making Sea Turtle Conservation Requirements Applicable to U.S. Shrimpers Throughout the South Atlantic and Gulf of Mexico

Sea turtles are found throughout the South Atlantic and Gulf of Mexico. U.S. shrimpers either currently or in the future might fish in any or all such waters. In order to protect turtles wherever found, NMFS proposes to apply its sea turtle conservation requirements to U.S. shrimpers trawling in all waters of the Atlantic Ocean (south of the Virginia/North Carolina border) and the Gulf of Mexico.

Restrictions on Fishing Activities That Adversely Affect Sea Turtles

Fisheries other than the shrimp fishery may cause sea turtle mortality. The NAS Study concluded that other fisheries may be the second most important human cause of sea turtle mortalities, although that impact is about one-tenth the impact of the shrimp fishery. In particular, other trawl fisheries could incidentally take sea turtles. For example, between November 29 and December 7, 1990, 54 turtles were reported stranded between Cape Hatteras and Ocracoke Inlet, North

Carolina. There was little, if any, shrimp trawling occurring in this area during this time, but 15-25 groundfish trawlers were operating in the nearshore waters. The North Carolina Division of Marine Resources closed that groundfish trawl fishery on December 7, 1990, and sea turtle strandings declined dramatically.

Furthermore, despite the fact that sea turtle conservation measures exist for the shrimp trawl fishery, sometimes compliance with the regulations is problematic or special conditions result in high rates of incidental takings. There have been several instances where high levels of sea turtle strandings have been attributed to the opening of a shrimp season when compliance with the 1987 turtle conservation measures was required. For example, when the Texas shrimp season opened on July 8, 1990, 31 strandings were documented on the upper Texas coast during the first 6 days, and 11 additional strandings were documented during the next 18 days. Only four strandings were reported in the same area between June 1 and July 7, before the Texas shrimp season opened. Enforcement of the TED regulations off Texas during the July and August 1990 season documented many violations. In 57 enforcement boardings between July 9 and July 20, 17 violations were documented. Shrimpers either were not using TED-equipped nets or they were making them inoperable for turtle release.

Thus, there is a need for a mechanism to prevent sea turtle mortalities in other fisheries or when existing restrictions on the shrimp fishery are found to be ineffective.

Accordingly, under the proposed regulations, the Assistant Administrator could issue a determination that incidental takings during fishing activities are unauthorized; pursuant thereto, the Assistant Administrator could impose restrictions on fishing activities and take such action as necessary to avoid unauthorized takings that may be likely to jeopardize the continued existence of a threatened or endangered species. Evidence of sea turtle mortality based on sea turtle strandings will be evaluated by NMFS. Similarly, evidence of a high level of sea turtles in an area where fishing activities are being conducted would be analyzed. Evidence of the level of compliance with TED requirements or other restrictions could be a relevant factor. Monitoring programs or observer requirements will be considered in order to insure that takings will not result in a jeopardy situation. Other indications of sea turtle mortality, potential turtle

mortality, or interactions with fishing activities will be evaluated.

In issuing restrictions on fishing activities, the Assistant Administrator would consult with the appropriate fishery officials (state or Federal). These restrictions could include time and area closures, limitations on the use of certain types of fishing gear, tow-time restrictions including special conditions, requirements to use TEDs or other types of gear, requirements for mandatory observer coverage, or similar restrictions. The Assistant Administrator would publish a notice of these restrictions in the *Federal Register*. Emergency restrictions would be imposed for a 30-day period, which could be extended. The restrictions on the summer flounder fishery, 58 FR 63685 (December 5, 1991) represent an example of the type of restrictions that could be implemented. Again, comments are specifically requested on this issue and how best to achieve compliance with any restrictions on fishing activities.

II. Proposed Revisions to Enhance and Facilitate Compliance and Enforcement.

NMFS is proposing the following revisions to enhance and facilitate compliance and enforcement of sea turtle conservation measures.

Generic Design Standards for Hard TEDs

NMFS has approved four types of hard TEDs—the NMFS, Georgia, Matagorda, and Cameron.

The NMFS and Cameron TEDs consist of two metal hoops with diagonal bars sloping from the bottom of the front hoop to the top of the rear hoop. The diagonal bars form a deflector grid at an angle of 30°-45° from the horizontal when the trawl is in its deployed position. A sea turtle encountering these bars is forced out through an opening in the top of the net.

The Georgia and Matagorda TEDs act on the same principle as the NMFS and Cameron TEDs, i.e., a deflector grid acts as a barrier. A sea turtle encountering these bars is forced out through an opening in the top or bottom of the net. The Georgia and Matagorda TEDs are different from the NMFS and Cameron TEDs because they consist of a single grid of bars attached to a hoop or rectangular frame sewn into the net.

In the last few years, several variations of these four types of hard TEDs have been developed by manufacturers or fishermen.

A TED known as the Mississippi Hybrid is similar to the NMFS TED but uses only a single front hoop. The deflector bars are attached to horizontal

rods that form an apex from the top of the front hoop to the top of the bars.

A variation of the Georgia TED, known as the Anthony Weedless TED, has an oval grid like the Georgia TED, but has bars that do not extend and attach to the bottom of the hoop. Leaving the bars unattached at the bottom supposedly allows seagrass and other debris to slide down the bars and into the back of the net instead of clogging the TED. The space between the ends of the bars and the bottom of the hoop may not exceed the allowable space between bars. The bars are constructed of heavy-gauge aluminum tubing that is sufficiently strong to allow the bars to be attached only at the top.

A TED called the Texas Shield combines the oval configuration of the Georgia TED with the rectangular shape of the Matagorda TED to form an oval barrier with a straight bottom. Some fishermen have suggested that the straight bottom facilitates turtle release.

NMFS has evaluated each of these hard TEDs and determined that they should all release sea turtles effectively.

Rather than naming and describing each approved hard TED, NMFS here proposes generic design criteria for all hard TEDs. The multiplicity of available hard TEDs has caused confusion and concern by some fishermen and enforcement officers. Many fishermen have contacted NMFS for clarification of the legality of various TEDs. Likewise, enforcement officers need a quick and certain way to determine whether a particular TED is approved. Measurable or observable design standards would facilitate enforcement of the TED requirement, provide clear guidance to fishermen, and allow fishermen flexibility in the hard TEDs they may use.

Based on thousands of hours of research on TEDs and sea turtle behavior, NMFS believes that hard TEDs must conform to the criteria proposed to meet the turtle exclusion rate performance standard of 97 percent. These criteria are size of hoop or grid, size of turtle escape opening, angle of deflector bars, space between deflector bars, position of the escape opening, method of attachment in the trawl, and material used in construction.

Under the proposed regulations, if a TED is of the hooped variety with hoops of oval design, the front hoop must have an inside horizontal measurement of at least 32 inches (81.3 cm) and an inside vertical measurement of at least 20 inches (50.8 cm) for use in the Gulf Area. For a TED used in the Atlantic Area, the measurements must be at least 35 inches (88.9 cm) and 30 inches (76.2 cm). If the

front hoop is circular, it must have an inside diameter of at least 32 inches (81.3 cm) for use in the Gulf Area, and at least 35 inches (88.9 cm) for use in the Atlantic Area. This size difference is maintained from the original sea turtle conservation regulations and is based on NMFS turtle size distribution data. Larger sea turtles are found along the Atlantic coast than are found in the Gulf of Mexico.

If a TED has a single grid, it must have inside horizontal and vertical measurements of at least 28 inches (71.1 cm) each for use in the Gulf Area. For a TED used in the Atlantic Area, such measurement must be at least 30 inches (76.2 cm). The measurement must be taken at the mid-point of the device. These dimensions combine the minimum dimensions of the Matagorda and Georgia TEDs, and NMFS considers them applicable for all single grid TEDs.

The proposed generic design standards, if adopted, would mean that NMFS, Cameron and Georgia TEDs of lesser dimensions that were acquired prior to July 1, 1987, could no longer be used. The effective life of a TED is approximately 2 years. Thus, few, if any, of these TEDs are still in use.

The size of the escape opening on hooped TEDs must not be smaller than 25 inches (63.5 cm) by 25 inches (63.5 cm) for TEDs used in the Gulf Area. For TEDs used in the Atlantic Area, the escape opening must not be smaller than 30 inches (76.2 cm) by 30 inches (76.2 cm). If a door frame is used, it must open a minimum height of 10 inches (25.4 cm) for use in the Gulf Area and a minimum of 12 inches (30.5 cm) for use in the Atlantic Area. In the Gulf Area, single-grid TEDs must have a horizontal slit opening in the webbing of at least 32 inches (81.3 cm) in straight-line length and, simultaneously, have a minimum of 10 inches (25.4 cm) straight-line vertical height. In the Atlantic Area, the horizontal opening must be at least 35 inches (88.9 cm) straight-line length and, simultaneously, have a minimum of 12 inches (30.48 cm) straight-line vertical height. In both cases, the height of the opening must be measured at the mid-point of the horizontal straight-line length.

The angle of the deflector bars in all hard TEDs must be between 30° and 50° from the horizontal when the TED is installed in the trawl in its normal, deployed position. This angle is modified from the original angle of 30°-45°. NMFS gear specialists, through research and observation, have determined that a more vertical angle reduces shrimp loss. NMFS recommends an angle between 40° and 45° for optimum performance of TEDs. The

spacing between the deflector bars, and between the deflector bars and the frame, on all hard TEDs may not exceed 4 inches (10.2 cm). This is based on the smallest size sea turtle that NMFS believes will be encountered on the shrimp grounds.

The position of the TED and escape opening in a trawl are critical to the TED's proper functioning. Hard TEDs have been shown effectively to release sea turtles through the top or bottom of the trawl. An upward or downward opening appears to accommodate the horizontal swimming position of a turtle.

Hard TEDs must be sewn in the trawl with heavy twine. In earlier tests of TEDs, some were installed with plastic ties that broke during testing. A TED must be sewn to the trawl around the TED's entire circumference to ensure that it is firmly affixed in the trawl and cannot be easily removed. Proper installation and attachment is also critical to the proper functioning of a TED. If a TED is incorrectly installed, it will not function properly and may cause loss of catch or fail to exclude turtles.

Hard TEDs must be constructed of materials strong enough to withstand a 400-500 pound (181.8-227.3 kg) object, such as a sea turtle, barrel, log, or other debris, that may strike the grid at a speed of 2-4 knots, the speed at which trawls are pulled. If a hard TED is not strong enough to withstand such an impact, if such impact occurs, the rate of sea turtle exclusion may be adversely affected. The current regulations require TEDs to be constructed of 1/4-inch (.635-cm) inside diameter metal pipe, 1/2-inch (1.27-cm) aluminum rod, or fiberglass rod of comparable strength. In one place in the current regulations, through a typographical error, the diameter for the bars in the Georgia TED is listed as 1/3 inch (.846 cm). Elsewhere, the 1/4-inch (.635-cm) bars are specified as the inside diameter of a hollow pipe, but no minimum outside dimension is specified. This proposed rule would clarify these inconsistencies by setting forth the following minimum dimensions for hard TED construction materials:

- (1) For hard TEDs constructed of solid steel rod, the rod must have a minimum outside diameter of 1/4 inch (.64 cm);
- (2) For hard TEDs constructed of fiberglass or aluminum rod, the rod must have a minimum outside diameter of 1/2 inch (1.27 cm); and
- (3) For hard TEDs constructed of steel or aluminum tubing, the tubing must have a minimum inside diameter of 1/4 inch (.64 cm) and a minimum outside diameter of 1/2 inch (1.27 cm) (schedule 40 tubing).

Soft TEDs

No generic design standards are being proposed for soft TEDs because there are substantial differences in configuration, size of mesh, and installation in a trawl. Also, because of the nature of the webbing material, specific instructions for installation of soft TEDs are necessary. If a soft TED is incorrectly installed, it will not function properly in terms of sea turtle release or catch retention and it may be subject to clogging. The proposed regulations list each approved soft TED together with descriptions and installation instructions.

Difficulties have been experienced in installing the Morrison soft TED. When the Morrison TED was tested for approval, it was installed in a 60-foot (18.3-m) flat trawl. The Morrison TED described in the existing regulations is the TED installed for that test. Some fishermen have found that the Morrison TED, with its minimum length of 16 feet 8 inches (5.1 m) from the codend of the net, will not fit in smaller trawls. At the request of NMFS, Georgia Sea Grant, industry gear specialists, and net makers convened a workshop to revise the design of the Morrison TED so it can fit in most trawls. The revised design will have to be tested to determine if it meets a NMFS certification protocol with respect to sea turtle release. If it passes the certification test, its specifications will be added to 50 CFR part 227 by an appropriate amendment. In the meantime, the proposed rule would revise the present description of the Morrison TED, as recommended by the workshop participants, so that it could now be made of either polyethylene or polypropylene webbing (rather than only polypropylene). Nylon would still be excluded because its stretch qualities may cause pouches, thus entrapping sea turtles. The requirement that a Morrison TED be made of a color easily distinguishable from the trawl net would be deleted because such differentiation has not had the intended effect of enhancing enforceability. The use of an extension piece between the TED and the codend would now be allowed.

Alterations to Approved TEDs

NMFS proposes to amend the regulations clearly to prohibit TED alterations other than those specifically authorized in the regulations. In 1990, some shrimp fishermen violated the sea turtle conservation regulations by altering the escape openings of their TEDs, making it more difficult or impossible for sea turtles to escape.

NMFS believes that to ensure correct functioning of TEDs, it is necessary specifically to prohibit all TED alterations except for those listed in these regulations. No modifications to soft TEDs would be allowed. The proposed rule allows only the following modifications to hard TEDs, as specified in the regulations:

- (1) Floats attached to the outer perimeter of the TED (but not to any flap or webbing);
- (2) The use of accelerator funnels; and
- (3) The use of flaps over escape openings.

NMFS has determined that use of an accelerator funnel, constructed of polypropylene or polyethylene webbing and attached ahead of a hard TED in a trawl enhances shrimp catch. An accelerator funnel increases the water flow in the trawl and substantially reduces the loss of shrimp, some of which may be lost through the sea turtle escape opening if an accelerator funnel is not used. Thus, the proposed regulations would allow any hard TED to be modified by installing an accelerator funnel in front of the TED, provided that it is constructed of heat-set and depth-stretched polypropylene or polyethylene webbing with a stretched mesh size no larger than 1½ inches (4.13 cm). The funnel must also have a minimum horizontal opening of 36 inches (91.4 cm). In effect, a yardstick must be able to pass through the funnel when it is horizontal.

Also allowed would be a webbing flap installed so as to cover the escape opening of a hard TED, provided that the flap is constructed of heat-set and depth-stretched polyethylene or polypropylene with a stretched mesh size no larger than 1½-inch (4.13-cm). The webbing flap must lie on the outside of the trawl, be attached along its entire forward edge forward of the escape opening, may not be attached on the sides more than 6 inches (15.2 cm) beyond the posterior edge of the grid, may not be longer than 24 inches (61.0 cm) beyond the posterior edge of the grid, and may not be more than 12 inches (30.5 cm) wider than the escape opening. The use of any device, including but not limited to elastic cord, chain, twine, or clothes pins, to hold the webbing flap closed or otherwise to restrict the opening would not be allowed.

Revisions to Design Criteria for, and the List of Allowable Modifications to, Hard TEDs and Approval of Additional TEDs

The proposed regulations would maintain the TED experimentation, testing, and approval procedures of the existing regulations. NMFS may revise

the generic design criteria for hard TEDs and the list of allowed modifications to hard TEDs by appropriate regulatory amendment. Similarly, NMFS may revise the list of approved hard and soft TEDs. Under the current and proposed regulations, such revisions must satisfy certain performance standards. Under NMFS scientific protocols, an approved TED must demonstrate a sea turtle exclusion rate of 97 percent or greater (or an equivalent rate).

A protocol for evaluating TEDs for rate of turtle exclusion in the Cape Canaveral, Florida, ship channel was published as an appendix to the 1987 sea turtle conservation regulations. Because the number of sea turtles in the Cape Canaveral channel has been low during recent years, an alternate protocol using captive reared sea turtles was published on October 9, 1990 (55 FR 41092). Under this protocol, captive reared turtles are introduced into TED-equipped test trawls by NOAA divers. NMFS will conduct turtle exclusion tests under both protocols whenever possible. However, unless the number of sea turtles present in the Canaveral channel increases, only testing under the protocol using captive-reared turtles will be possible. Because of the logistical problems and the costs of using captive-reared turtles, NMFS intends to conduct TED turtle exclusion testing once a year, normally in the fall or winter.

Testing for Shrimp Retention Efficiency

The most often heard complaint from fishermen about TEDs is that they lose an unacceptable amount of shrimp. Shrimp retention testing pursuant to a common protocol and publication of the results may aid fishermen in choosing a TED. A common protocol would insure measurement uniformity. Publication of the rates would allow fishermen to choose a TED with a low loss rate or perhaps a lower-cost TED with a slightly higher loss rate.

Accordingly, NMFS intends to certify, and publish in the *Federal Register*, the results of any shrimp efficiency retention tests conducted in accordance with NMFS testing procedures.

A person interested in participating in experimentation or in testing a TED for shrimp retention or turtle exclusion should contact either the Science and Research Director, Southeast Fisheries Science Center, or the Director, Southeast Region, NMFS, as specified in the regulations.

Comments are specifically invited on whether NMFS should require shrimp retention testing for approved TEDs or as a condition for certification.

Prohibition on the Sale, Barter, or Trade of TEDs That Do Not Conform to Regulatory Requirements

NMFS proposes to prohibit the sale, barter, trade, or offer for sale, barter or trade, of a TED that does not meet the regulatory requirements and, therefore, is not an approved TED. Some of those engaged in the business of selling TEDs allegedly have sold TEDs that do not conform to the requirements for an approved TED, complicating compliance with the regulations. It should be noted that the new prohibition would not relieve owners and operators of shrimp trawlers of their responsibility to ensure that approved TEDs are installed in their trawl nets. Such owners and operators would continue to be fully subject to prosecution if they are not in compliance with the regulations.

Installation of Approved TEDs in Shrimp Trawls

The existing regulations state that an approved TED "must be carried and used in each net during trawling" in specified areas during specified periods. Some shrimp fishermen have hauled nonconforming nets out of the water when approached by an enforcement vessel and have claimed that while they may have nets on board that do not have an approved TED installed, the regulations only specifically prohibit such a net from being trawled. They argue that because the enforcement officer has no direct evidence that a non-conforming net was in the water, they cannot be charged with a violation. Although most violations are documented while the shrimp trawler has its nets in the water, some are based only on the admissions or on circumstantial evidence or other evidence of trawling. To allow enforcement officers to determine more readily, based on direct evidence, whether a trawler is in compliance with TED requirements, and to avoid the possible circumvention of the regulations, NMFS is proposing to revise the regulations to require that an approved TED be installed in each shrimp trawl net that is rigged for fishing aboard a trawler.

Additional Proposed Changes

Definitions of *accelerator funnel*, *approved TED*, *fish*, *fishing*, or *to fish*, (including trawling), *hard TED*, *soft TED*, and *TED (turtle excluder device)* would be added to clarify and simplify the regulations. The definitions of *Atlantic Area* and *Gulf Area* would be revised so that the former would include all waters of the Atlantic Ocean south of 36°33'00.8"N. latitude (Virginia/North

Carolina border), including the current Canaveral Area, while the latter would include all waters of the Gulf of Mexico east to 81°W. longitude, including the current Southwest Florida Area. The two new Areas would meet at 81°W. longitude. Correspondingly, definitions of *Canaveral Area* and *Southwest Florida Area* would be removed. The definitions of *inshore*, *length*, and *offshore*, would also be removed. The definition of *authorized officer* would be revised to (1) clarify that the mechanism whereby an officer of a Federal or state agency is authorized to enforce the provisions of the ESA is by agreement of that agency with the Secretary of Commerce or with the U.S. Coast Guard and (2) conform the definition to current usage of terms. The definition of *shrimp trawler* would be revised to include those vessels that are equipped with trawl nets and capable of fishing for shrimp, in addition to those equipped with trawl nets and actually used for shrimp fishing or having shrimp aboard exceeding 1 percent, by weight, of all fish on board.

Section 227.71 would be revised and would include the prohibitions of the current § 227.72(e)(6) as paragraph (b). The prohibitions would be revised in their entirety to: (1) More clearly reference the enforcement instructions and signals applicable to TED enforcement; (2) add prohibitions on acts that interfere with enforcement of the regulations; (3) add a specific prohibition on attempting to commit any prohibited act; (4) explicitly prohibit fishing for, catching, taking, harvesting, or possessing, fish or wildlife while on board a shrimp trawler, unless that trawler complies with all applicable sea turtle conservation measures, or possessing fish or wildlife taken in violation of the regulations; (5) add a prohibition against selling a TED that is not an approved TED; (6) prohibit fishing in contravention of a notice issued by the Assistant Administrator pursuant to the regulations restricting fishing activities; and (7) strengthen the prohibitions against those who fail to follow the resuscitation requirements in § 227.72(e)(1) of the regulations. A provision would be added for clarification providing that anyone claiming the benefit of an exemption (or modification to a TED) has the burden of demonstrating its applicability. This tracks similar language in the ESA.

Section 11(e)(4)(A) of the ESA (16 U.S.C. 1540(e)(4)(A)) provides that fish or wildlife taken or possessed in violation of the ESA or implementing regulations are subject to forfeiture. This includes, among other things, fish taken

in violation of these regulations (i.e., by means of trawls that are not equipped with approved TEDs), as well as fish possessed on board a vessel that is not equipped with approved TEDs. In addition to improving enforceability by closing gaps in the prohibitory language, the proposed revisions more closely parallel the statutory language of section 11(e)(4)(A), thereby clarifying the types of actions that would render fish subject to forfeiture.

While the authority to seize and seek forfeiture of illegally taken fish or wildlife derives from the ESA itself rather than from these regulations, the proposed amendments would serve the important purpose of clearly putting fishermen on notice that violating the regulations could lead to seizure and forfeiture of the unlawfully taken catch. This proposed modification, by providing necessary clarification, serves as an underpinning that improves government's ability to protect endangered and threatened sea turtles. It provides an important additional enforcement tool that may be used when necessary to ensure compliance with the TED regulations.

The revision of § 227.72(e) would also make corrections and clarifications of the existing regulations. For ease of review, § 227.72(e) as it would be revised in this proposed rule is presented in its entirety, with the exception of the maps and figures. Tables 1 and 2, showing by area the initial starting dates for the required use of TEDs and tow times, are no longer applicable and would be removed.

NMFS plans to conduct public hearings on this proposed rule in Houston, Texas; New Orleans, Louisiana; Tampa, Florida; Beaufort, North Carolina; Charleston, South Carolina; and Washington, DC. Specific hearing locations and times will be published by notice in the *Federal Register*.

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Classification

The Assistant Administrator has determined that this proposed rule is consistent with the ESA and with other applicable law. Consultation has been initiated under section 7 of the ESA and a revised biological opinion on the shrimp fishery and this proposed rule will be prepared.

The Assistant Administrator has determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291.

An environmental impact statement (EIS) (NMFS 1978) prepared for the listing of three species of sea turtles, the green, loggerhead, and olive ridley, also addressed the development of gear and procedures to reduce the incidental take and mortality of sea turtles in shrimp trawls. An Environmental Assessment (EA) that described a voluntary program to encourage the use of TEDs was prepared in 1983. A supplemental EIS covering the mandatory TED and tow-

time requirements was prepared in 1987 (NMFS 1987b).

A regulatory impact review/regulatory flexibility analysis (RIR/RFA) was prepared for the final rule that required TEDs (52 FR 24244, June 29, 1987). A combination EA and supplemental RIR/RFA was prepared for the changes proposed in this rule that were not already analyzed in the original RIR/RFA. The EA concludes that the proposed rule will not result in an adverse effect to the environment. The combination EA and supplemental RIR/RFA is available for review and comment (see ADDRESSES).

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management programs of Alabama, Florida, Louisiana, Mississippi, North Carolina, and South Carolina. Georgia and Texas do not participate in the Federal coastal management program. These determinations have been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

Neither this proposed rule nor the ESA precludes any state from adopting more stringent sea turtle protection measures.

This proposed rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Parts 217 and 227

Endangered and threatened species, Exports, Fish, Imports, Transportation.

Dated: April 27, 1992.

William W. Fox, Jr.,

Assistant Administrator for Fisheries.

For the reasons set forth in the preamble, 50 CFR parts 217 and 227 are proposed to be amended as follows:

PART 217—GENERAL PROVISIONS

1. The authority citation for part 217 is revised to read as follows:

Authority: 16 U.S.C. 1531-1543; and 16 U.S.C. 742a et seq., unless otherwise noted.

2. In § 217.12, the definitions for *Canaveral Area*, *Inshore*, *Length*, *Offshore*, and *Southwest Florida Area*, are removed; the definitions for *Atlantic Area*, *Authorized officer*, *Gulf Area*, and *Shrimp trawler* are revised; and new definitions for *Accelerator funnel*, *Approved TED*, *Fishing, or to fish*, (including trawling), *Hard TED*, *Soft*

TED, and *TED (Turtle excluder device)* are added in alphabetical order to read as follows:

§ 217.12 Definitions.

Accelerator funnel means a device designed to be used to accelerate the flow of water through a shrimp trawl net.

Approved TED means:

(1) A hard TED that complies with the generic design criteria set forth in 50 CFR 227.72(e)(4)(i) and that has not been modified in any manner except as specifically authorized by 50 CFR 227.72(e)(4)(iii); or

(2) A soft TED that complies with the provisions of 50 CFR 227.72(e)(4)(ii) and that has not been modified in any manner.

Atlantic Area means all waters of the Atlantic Ocean south of 36°33'00.8" N. latitude (North Carolina/Virginia border) and adjacent seas, other than waters of the Gulf Area, and all waters shoreward thereof (including ports).

Authorized officer means:

(1) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(2) Any special agent or enforcement officer of the National Marine Fisheries Service;

(3) Any officer designated by the head of a Federal or state agency that has entered into an agreement with the Secretary or the Commandant of the Coast Guard to enforce the provisions of the ESA; or

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

Fishing, or to fish, means—

(1) The catching, taking or harvesting of fish or wildlife;

(2) The attempted catching, taking, or harvesting of fish or wildlife;

(3) Any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish or wildlife; or

(4) Any operations on any waters in support of, or in preparation for, any activity described in paragraphs (1) through (3) of this definition.

Gulf Area means all waters of the Gulf of Mexico west of 81° W. longitude (the line at which the Gulf Area meets the Atlantic Area) and all waters shoreward thereof (including ports).

Hard TED means a rigid deflector grid and associated hardware designed to be installed in a trawl net forward of the

codend for the purpose of excluding sea turtles from the net.

Shrimp trawler means any vessel that is equipped with one or more trawl nets and that is capable of, or use for, fishing for shrimp, or whose on-board or landed catch of shrimp is more than 1 percent, by weight, of all fish comprising such catch.

Soft TED means a panel of polypropylene or polyethylene netting designed to be installed in a trawl net forward of the codend for the purpose of excluding sea turtles from the net.

TED (Turtle excluder device) means a device designed to be installed in a trawl net forward of the codend for the purpose of excluding sea turtles from the net.

PART 227—THREATENED FISH AND WILDLIFE

3. The authority citation for part 227 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

4. Section 227.71 is revised to read as follows:

§ 227.71 Prohibitions.

(a) Except as provided in § 227.72, the prohibitions of section 9 of the ESA (16 U.S.C. 1538) relating to endangered species apply to any species of sea turtle enumerated in § 227.4.

(b) Except as provided in § 227.72, it is unlawful for any person subject to the jurisdiction of the United States to do any of the following:

(1) Own, operate, or be on board a vessel, except if that vessel is in compliance with all applicable provisions of § 227.72(e);

(2) Fish for, catch, take, harvest, or possess, fish or wildlife while on board a vessel, except if that vessel is in compliance with all applicable provisions of § 227.72(e);

(3) Fish for, catch, take harvest, or possess, fish or wildlife contrary to any notice of tow-time or other restriction issued under § 227.72(e) (3) or (6);

(4) Possess fish or wildlife taken in violation of this paragraph (b).

(5) Fail to follow any of the sea turtle handling and resuscitation requirements specified in § 227.72(e)(1);

(6) Possess a sea turtle in any manner contrary to the handling and resuscitation requirements of § 227.72(e)(1);

(7) Fail to comply immediately, in the manner specified at 50 CFR 620.8 (b)-(d), with instructions and signals specified therein issued by an authorized officer,

including instructions and signals to haul back a net for inspection;

(8) Refuse to allow an authorized officer to board a vessel, or to enter an area where a fish or wildlife may be found, for the purpose of conducting a boarding, search, inspection, seizure, investigation, or arrest in connection with enforcement of this section;

(9) Destroy, stave, damage, or dispose of in any manner, fish or wildlife, gear, cargo, or any other matter after a communication or signal from an authorized officer, or upon the approach of such an officer or of an enforcement vessel or aircraft, before the officer has had an opportunity to inspect same, or in contravention of directions from the officer;

(10) Assault, resist, oppose, impede, intimidate, threaten, obstruct, delay, prevent, or interfere with an authorized officer in the conduct of any boarding, search, inspection, seizure, investigation, or arrest in connection with enforcement of this section;

(11) Interfere with, delay, or prevent by any means, the apprehension of another person, knowing that such person has committed an act prohibited by this section;

(12) Resist a lawful arrest for an act prohibited by this section;

(13) Make a false statement, oral or written, to an authorized officer concerning the fishing for, catching, taking, harvesting, landing, purchasing, selling, or transferring fish or wildlife, or concerning any other matter subject to investigation under this section by such officer;

(14) Sell, barter, trade or offer to sell, barter, or trade, a TED that is not an approved TED; or

(15) Attempt to do, solicit another to do, or cause to be done, any of the foregoing.

(c) In connection with any action alleging a violation of this § 227.71, any person claiming the benefit of any exemption, exception, or permit under this subpart D shall have the burden of proving that the exemption, exception, or permit is applicable, has been granted, and was valid and in force at the time of the alleged violation. Further, any person claiming that a modification made to a TED that is the subject of such an action complies with the requirements of § 227.72(e)(4)(iii) shall have the burden of proving such claim.

5. In § 227.72, Figures 1 through 8b of the section are redesignated as Figures 1 through 8b of the part; Tables 1 and 2 and paragraph (e)(7) are removed; and paragraph (e)(1) introductory text, and paragraphs (e)(2) through (e)(6) are revised to read as follows:

§ 227.72 Exceptions to prohibitions.

(e) * * *

(1) *General*. The prohibitions against taking in § 227.71(a) do not apply to the incidental take of any member of any species of sea turtle listed in § 227.4 (i.e., a take not directed toward such member) during fishing or scientific research activities to the extent that those involved are in compliance with the requirements of paragraphs (e)(1), (e)(2), (e)(3), and (e)(6) of this section.

(2) *Gear requirements*—(i) *TED requirement*. Except as provided in paragraph (e)(2)(ii) of this section, any shrimp trawler that is in the Atlantic Area or Gulf Area must have an approved TED (as defined in § 271.12) installed in each net that is shackled, tied, or otherwise connected to any trawl door or board, or to any tow rope or cable, either on board or attached in any manner to such trawler.

(ii) *Exemptions from the TED requirement*. The following are exempt from the TED requirements of paragraph (e)(2)(i) of this section:

(A) A shrimp trawler fishing for or possessing royal red shrimp, if at least 90 percent (by weight) of all shrimp either found on board, or offloaded from, that trawler are royal red shrimp;

(B) A shrimp trawler that has no power or mechanical-advantage trawl retrieval system on board;

(C) A shrimp trawler fishing for bit shrimp, provided that it does not have more than 5 pounds (2.27 kg) of dead shrimp on board, has an original, valid, state bait-shrimp license on board, and all of its shrimp are retained in a container with a circulating sea water system;

(D) A beam or roller trawl that is fished without doors, boards, or similar devices, and has a mouth that is formed by a rigid frame and rigid vertical bars, with the space between the bars, and between the bars and the frame, not in excess of 4 inches (10.2 cm);

(E) A single test net (try net) with a headrope length of 20 feet (6.1 m) or less, provided that it is either pulled immediately in front of another net or is not connected to another net in any way, and that no more than one test net is used at a time; and

(F) A shrimp trawler that is in an area during a period for which tow-time restrictions are applicable under paragraph (e)(3) of this section if the trawler is in compliance with those restrictions.

(3) *Tow-time restrictions*—(i) *Alternative—special environmental*

conditions. The Assistant Administrator may allow compliance with tow-time restrictions, as an alternative to the TED requirement of paragraph (e)(2)(i) of this section, if he/she determines that the presence of sargassum or other special environmental conditions in a particular area makes trawling with TED-equipped nets impracticable.

(ii) *Substitute—ineffectiveness of TEDs.* The Assistant Administrator may require compliance with tow-time restrictions, as a substitute for the TED requirement of paragraph (e)(2)(i) of this section, if he/she determines that TEDs are ineffective in protecting leatherback or other sea turtles.

(iii) *Duration of tows.* If tow-time restrictions are utilized as an alternative to or substitute for the TED requirement of paragraph (e)(2)(i) of this section, a shrimp trawler must limit tow times to no more than 40 minutes during warm-water months (from April 1 through October 31) and to no more than 60 minutes during cold-water months (from November 1 through May 31). Tow times are measured from the time that the trawl doors enter the water until the doors are removed from the water.

(iv) *Notice; applicability; conditions.* The Assistant Administrator will publish a notice concerning any tow time restrictions in the *Federal Register* and will announce it in summary form on channel 16 of the marine VHF radio. A notice of tow-time restrictions will include findings in support of those restrictions as an alternative to, or as substitute for, the TED requirements of paragraph (e)(2)(i) of this section. The notice will specify the effective dates, the geographic area where tow-time restrictions apply and any applicable conditions or restrictions that the Assistant Administrator determines are necessary or appropriate to protect sea turtles and ensure compliance, including, but not limited to, requirements that all shrimp trawlers in the area utilize synchronized tow times so that trawl gear remains out of the water during certain times or to provide observes. A notice withdrawing tow-time restrictions will include findings in support of that action.

(v) *Procedures.* The Assistant Administrator will consult with the appropriate fisheries official (state or Federal) where the affected shrimp fishery is located in issued a notice concerning tow-time restrictions. An emergency notice is effective for a period not to exceed 30 days and may be renewed for additional periods not to exceed 30 days each if the Assistant Administrator finds that the conditions that necessitated the imposition of tow-time restrictions continue to exist. The

Assistant Administrator may invite comments on such a notice. The Assistant Administrator will implement any permanent tow-time restriction by regulation. The Assistant Administrator may withdraw or modify a notice of tow-time restriction by following procedures similar to those for implementation.

(4) *Approved TEDs.* Any netting, webbing, or mesh that may be measured to determine compliance with this paragraph (4) is subject to measurement either when it is wet or when it is dry.

(i) *Hard TEDs.* Hard TEDs and TEDs with rigid deflector grids and are categorized as hooped hard TEDs, such as the NMFS and Cameron (Figures 1 and 2) or single-grid hard TEDs, such as the Matagorda and Georgia (Figures 3 and 4). Hard TEDs complying with the following generic design criteria, and modified in no manner other than as specifically authorized in paragraph (e)(4)(iii) of this section, are approved TEDs:

(A) *Construction materials.* A hard TED must be constructed of one or a combination of the following materials with minimum dimensions as follows:

(1) Solid steel rod with a minimum outside diameter of $\frac{1}{4}$ inch (.64 cm);

(2) Fiberglass or aluminum rod with a minimum outside diameter of $\frac{1}{2}$ inch (1.27 cm); and

(3) Steel or aluminum tubing with a minimum inside diameter of $\frac{1}{4}$ inch (.64 cm) and a minimum outside diameter of $\frac{1}{2}$ inch (1.27 cm) (schedule 40 tubing).

(B) *Method of attachment.* A hard TED must be sewn into the trawl around the entire circumference of the TED with heavy twine.

(C) *Angle of deflector bars.* The angle of the deflector bars must be between 30° and 50° from the normal, horizontal flow through the interior of the trawl.

(D) *Space between bars.* The space between deflector bars, and between the deflector bars and the frame, must not exceed 4 inches (10.2 cm).

(E) *Position of escape opening.* The entire width of the escape opening from the trawl must be centered on and immediately forward of the frame at either the top or bottom of the net when the net is in its deployed position. The escape opening must be at the top of the net when the slope of the deflector bars from forward to aft is upward, and must be at the bottom when such slope is downward. For single grid TEDs, the escape opening must be cut horizontally along the same plane as the TED, and may not be cut in a fore-and-aft director.

(F) *Size of escape opening.* (1) On a hooped hard TED, the escape opening must be not smaller than 25 inches (63.5 cm) by 25 inches (63.5 cm) in the Gulf

Area, and 30 inches (76.2 cm) by 30 inches (76.2 cm) in the Atlantic Area. If a door frame is used over the escape opening, it must open a minimum height of 10 inches (25.4 cm) in the Gulf Area, and a minimum of 12 inches (30.5 cm) in the Atlantic Area.

(2) On single-grid hard TED, the escape opening must be at least 32 inches (81.3 cm) in horizontal straight-line length and, simultaneously, 10 inches (20.5 cm) vertical straight-line height in the Gulf Area and 35 inches (88.9 cm) horizontal straight-line length and, simultaneously, 12 inches (30.48 cm) vertical straight-line height in the Atlantic Area. The height measurements must be taken simultaneously at the mid-point of the horizontal measurement.

(G) *Size of hoop or grid—(1) Hooped hard TED.* (i) An oval front hoop on a hard TED in the Gulf Area must have an inside horizontal measurement of at least 32 inches (81.3 cm) and an inside vertical measurement of at least 20 inches (50.8 cm). An oval front hoop on a hard TED in the Atlantic Area must have an inside horizontal measurement of at least 35 inches (88.9 cm) and an inside vertical measurement of at least 30 inches (76.2 cm).

(ii) A circular front hoop on a hard TED in the Gulf Area must have an inside diameter of at least 32 inches (81.3 cm). A circular front hoop on a hard TED in the Atlantic Area must have an inside diameter of at least 35 inches (88.9 cm).

(2) *Single-grid hard TED.* A single-grid hard TED in the Gulf Area must have an inside horizontal and vertical measurement of at least 28 inches (71.1 cm). A single-grid hard TED in the Atlantic Area must have an inside horizontal and vertical measurement of at least 30 inches (76.2 cm). The required inside measurements must be at the mid-point of the deflector grid.

(ii) *Soft TEDs.* Soft TEDs are TEDs with a deflector panel made from polypropylene or polyethylene netting. The following soft TEDs are approved TEDs:

(A) *Morrison TED* (Figures 5 & 6). The Morrison TED uses synthetic mesh webbing for its deflector panel(s). The webbing must consist of number 42 (3-mm thick) or larger polypropylene or polyethylene webbing that is heat-set knotted or braided. The stretched opening of the mesh may not exceed 8 inches (20.3 cm). The webbing may be installed as one main excluder panel or as a main and two side (jib) excluder panels (Figure 6). In either case, the webbing must form a complete barrier to large objects inside the trawl net.

forward of the codend. The base (leading edge) of the excluder panel(s) must be sewn to the bottom body of the trawl net at least 16 feet 8 inches (5.1 m) forward of the point at which the codend is attached to the trawl net. The apex of the excluder panel(s) must be sewn to the center of the top body of the trawl net not more than 20 inches (50.8 cm) forward of the point at which the codend is attached to the trawl net. If a net extension is inserted forward of the codend, the base and apex attachments of the excluder panel(s) must be measured from the forward attachment points of such extension. The horizontal length of the stretched main excluder panel may not be less than 15 feet (4.54 m). Each point on the circumference of the webbing must be sewn to the trawl net. The meshes of the webbing must be under tension when the codend is pulled aft, thus forming diamond patterns pointing toward the top of the trawl net. As an escape opening, a slit at least 4 feet 8 inches (1.4 m) in length must be cut in a fore-and-aft direction at the top of the trawl net immediately forward of the apex of the webbing. The slit may not be covered or closed in any manner.

(B) *Parrish TED* (Figure 7). The Parrish TED consists of an extension and deflector panel made of synthetic mesh, and a steel frame. The extension must be a piece of 1½-inch (4.5-cm) stretched mesh, no. 15 thread, treated nylon, measuring 150 meshes by 100 meshes and installed in the trawl. When installed, the extension must be cylindrically shaped with a circumference of 150 meshes and a depth of 100 meshes. The deflector panel must slope down the inside of the extension and must be a rectangular piece of 8-inch (20.3-cm), stretched mesh, 3-mm diameter, braided polyethylene. The deflector panel must measure eight meshes across its leading and trailing edges and be 15½ meshes deep. The eight meshes at the leading edge of the deflector panel must be sewn into the small (1¼-inch) (4.5-cm) mesh of the extension three meshes down from the top edge of the extension. The eight meshes at the trailing edge must be attached to the top edge of the frame. Each side edge of the deflector panel must be attached at 5½-inch (14.3-cm) intervals to a ¾-inch (1.0-cm) diameter, three-strand polydacron rope, which must be attached to the small mesh of the extension at ¾-inch (14.3-cm) intervals. The deflector panel must form a complete barrier to large objects inside the extension forward of the frame. The frame must be a rectangular, ¾-inch (1.0-cm) diameter,

welded galvanized steel rod unit with a 40-inch by 4-inch (101.6-cm by 10.2-cm) opening and small pad eyes at the top corners. The Trailing-edge meshes of the deflector panel must be attached to the top of the frame, and 50 lateral meshes of the extension netting (1¼-inch (4.5-cm) mesh) must be centered and sewn to the bottom and sides of the frame. The escape opening must consist of a lateral slit, measuring 40 meshes, cut from the leading edge at the bottom of the frame. A 50-inch (127.0-cm), ¼-inch (.6-cm) diameter, bungee cord must be laced through the meshes at the cut. Opposing ends of the bungee cord must be secured to the opposing pad eyes at the top of the frame. One end of a flap measuring 50 meshes across by 30 meshes deep must be attached to the meshes at the cut.

(c) *Andrews TED* (Figures 8a & 8b). The Andrews TED is a funnel constructed of 5-inch (12.7-cm) stretched mesh polyethylene or polypropylene webbing that is sewn inside a shrimp trawl. The leading edge of the funnel must be sewn with heavy twine at all points to the outer trawl beginning on the row of meshes located 20 meshes behind the center of the footrope and continuing around the circumference of the trawl, following the same row of meshes. The webbing must not be laced with rope. The funnel must taper to an escape opening in the bottom of the trawl. The rear edge of the escape opening must be located no more than 20 inches (50.8 cm) ahead of the net extension. The trailing edge on the funnel must be sewn at all points around the circumference of the escape opening. The escape opening must be at least 96 inches (243.8 cm) in circumference. A webbing flap may be used to cover the escape opening provided that no device holds the webbing flap closed or otherwise restricts the opening, and the flap is constructed of webbing which has a stretched mesh size no larger than 2-inch (5.1-cm), lies on the outside of the trawl, is attached along its entire forward edge forward of the escape opening, is 50 meshes wide and 15 meshes deep, does not overlap the exit opening more than five meshes on each side, may be attached along the 15-mesh edge, and must maintain an opening of at least 48 inches (121.9 cm) in a straight-line position.

(iii) *Allowable modifications*. No modifications may be made to an approved soft TED. Only the following modifications may be made to an approved hard TED:

(A) Floats may be attached, but only to the outer perimeter, and not to any flap or webbing;

(B) An accelerator funnel may be installed in the trawl, provided the accelerator funnel is made of polypropylene or polyethylene webbing with a stretched mesh size not greater than 1½ inches (4.1 cm), has a minimum insides horizontal opening of 36 inches (91.4 cm) in a straight-line position, is inserted in the net immediately forward of the TED, and its rear edge does not extend past the bars of the TED; and

(C) A webbing flap may be used to cover the escape opening, provided that no device holds the webbing flap closed or otherwise restricts the opening; and the flap is constructed of heat-set and depth-stretched polyethylene or polypropylene mesh, has a stretched mesh size no larger than 1½-inch (4.1-cm), lies on the outside of the trawl, is attached along its entire forward edge forward of the escape opening, is not attached on the sides more than 6 inches (15.2 cm) beyond the posterior edge of the grid, is not longer than 24 inches (61.0 cm) beyond the posterior edge of the grid, and is not more than 12 inches (30.5 cm) wider than the escape opening.

(5) *Revision of generic design criteria and allowable modification of hard TEDs and additional soft TEDs*.

(i) The Assistant Administrator may revise the generic design criteria for hard TEDs set forth in paragraph (e)(4)(i) of this section, approve allowable modifications to hard TEDs in addition to those authorized in paragraph (e)(4)(iii) of this section, or approve soft TEDs in addition to those listed in paragraph (e)(4)(ii) of this section, by a regulatory amendment if, according to a NMFS-approved scientific protocol, they demonstrate a sea turtle exclusion rate of 97 per cent or greater (or an equivalent exclusion rate). Two such protocols have been published by NMFS (52 FR 24262, June 29, 1987, and 55 FR 41092, October 9, 1990). Testing under the protocol must be conducted under the supervision of the Assistant Administrator, and shall be subject to all such conditions and restrictions as the Assistant Administrator deems appropriate. Any person wishing to participate in such testing should contact the Director, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149.

(ii) Upon application, the Assistant Administrator may issue permits, subject to such conditions and restrictions as the Assistant Administrator deems appropriate, authorizing public or private experimentation aimed at improving shrimp retention efficiency of existing approved TEDs and at developing additional TEDs. Applications should be

addressed to the Director, Southeast Region, NMFS, 9450 Koger Blvd., St. Petersburg, FL 33702.

(6) *Limitations on incidental takings during fishing activities.*

(i) *Limitations.* The exemption for incidental takings of sea turtles in paragraph (e)(1) of this section does not authorize incidental takings during fishing activities if the takings:

(A) Would violate the restrictions, terms, or conditions of an incidental take statement or biological opinion;

(B) Would violate the restrictions, terms, or conditions of an incidental take permit; or

(C) May be likely to jeopardize the continued existence of a species listed under the ESA.

(ii) *Determination; restrictions on fishing activities.* The Assistant Administrator may issue a determination that incidental takings during fishing activities are unauthorized. Pursuant thereto, the Assistant Administrator may restrict fishing activities in order to conserve a species listed under the ESA. The Assistant Administrator will take such action if he determines that restrictions are necessary to avoid unauthorized takings that may be likely to jeopardize the continued existence of a listed species. The Assistant Administrator may withdraw or modify a

determination concerning unauthorized takings or any restriction on fishing activities if the Assistant Administrator determines that such action is warranted.

(iii) *Notice; applicability; conditions.* The Assistant Administrator will publish a notice of determination concerning unauthorized takings or a notice concerning the restriction of fishing activities in the **Federal Register**. The Assistant Administrator will provide as much advance notice as possible consistent with the requirements of the ESA and will announce the notice in summary form on channel 16 of the marine VHF radio. A notice of determination concerning unauthorized takings will include findings in support of that determination; specify the fishery, including the target species and gear used by the fishery, the area, and the times, for which incidental takings are not authorized; and include such other conditions and restrictions as the Assistant Administrator determines are necessary or appropriate to protect sea turtles and ensure compliance. A notice of restriction of fishing activities will include findings in support of the restriction, will specify the time and area where the restriction is applicable, and will specify any applicable conditions or restrictions that the

Assistant Administrator determines are necessary or appropriate to protect sea turtles and ensure compliance. Such conditions and restrictions may include, but are not limited to, limitations on the types of fishing gear that may be used, tow time restrictions, requirements to use TEDs, and requirements to provide observers. A notice of withdrawal or modification will include findings in support of that action.

(iv) *Procedures.* The Assistant Administrator will consult with the appropriate fisheries officials (state or Federal) where the fishing activities are located in issuing a notice of determination concerning unauthorized takings or a notice concerning the restriction of fishing activities. An emergency notice is effective for a period not to exceed 30 days and may be renewed for additional periods not to exceed 30 days each. The Assistant Administrator may invite comments on such a notice. The Assistant Administrator will implement a permanent determination or restriction by regulation. The Assistant Administrator may withdraw or modify a notice by following procedures similar to those for implementation.

[FR Doc. 92-10095 Filed 4-27-92; 2:31 pm]

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Notices

Federal Register

Vol. 57, No. 84

Thursday, April 30, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 24, 1992.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404-W Admin. Bldg., Washington, DC 20250, (202) 690-2118.

Revision

- Food and Nutrition Service, WIC State Agency Financial Management and Participation Report, FNS-498, Monthly State or local governments; Small businesses or organizations; 31,450 responses; 33,337 hours Joan Carroll, (703) 305-2710
- Agricultural Marketing Service Regulations for Inspection and Certification of Quality of Agricultural

and Vegetable Seeds Under the Agricultural Marketing Act of 1946 LS-375

On occasion

Individuals or households; Farms; Businesses or other for-profit; Small businesses or organizations; 2,149 responses; 537 hours

James P. Triplitt, (301) 504-9430

• Agricultural Marketing Service Lawn and Turf Seed Mixtures, Germination Test Dates, and Certain Labeling Requirements Under the Federal Seed Act

Recordkeeping; On occasion

State or local governments; Farms; Businesses or other for-profit; Small businesses or organizations; 14,722 responses; 37,254 hours

James P. Triplitt, (301) 504-9430

Extension

• Food Safety and Inspection Service Regulations Governing Poultry Inspection

FSIS 11,300-2, FSIS 11,300-3, FSIS 11,300-4, FSIS 11-300-5, FSIS 11,300-8, MP 528, FSIS 6500-1, FSIS 6500-2, FSIS 6500-3, FSIS 9061-1, FSIS 6000-17, FSIS 6510-7, FSIS 10,600-2

On occasion; Quarterly

Individuals or households; State or local governments; Businesses or other for-profit; Small Businesses or organizations; 918,730 responses; 98,045 hours

Roy Purdie, Jr., (202) 720-5372

• Food and Nutrition Service, Application for Participation (FNS-66) and Agreement Between School Food Authority and USDA (FNS-67)

FNS-66, FNS-67

Annually

Non-profit institutions; Small businesses or organizations; 1,316 responses; 832 hours

Winnie McQueen, (703) 305-2607

• Agricultural Stabilization and Conservation Service

7 CFR 1427—Standards for Approval of Warehouses for Cotton and Cotton Linters

CCC-823, CCC-823-1A, CCC-823-IT, CCC-20, and CCC-49

On occasion

Businesses or other for-profit; Small businesses or organizations; 1,230 responses; 1,245 hours

Howard Froehlich, (202) 720-7398

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 92-10094 Filed 4-29-92; 8:45 am]

BILLING CODE 3410-01-M

Federal Crop Insurance Corporation

[Doc. No. 0120s]

Request for Comments on the Insurability of Acreage Which Is Destroyed or put to Another Use To Comply With Other U.S. Department of Agriculture (USDA) Programs

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice with request for comment.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) publishes this notice to solicit public comment regarding acreage which is destroyed or put to another use to comply with other U.S. Department of Agriculture (USDA) programs. FCIC is providing public notice of the insurance policy terms and conditions which are not being fully enforced. FCIC is seeking public comment regarding its intent to enforce its policy provisions regarding payment of premium on acreage which is destroyed or put to another use to comply with other USDA programs.

DATES: Written comments, data, and opinions on this notice must be submitted not later than June 1, 1992, to be sure of consideration.

ADDRESS: Written comments on this notice should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (703) 325-1168.

The Manager, FCIC, has certified to the Office of Management and Budget (OMB) that this notice meets the applicable standards provided in section 2(a) and 2(b)(2) of Executive Order 12778.

SUPPLEMENTARY INFORMATION: FCIC crop insurance policies provide protection for crops from the date they are planted to the time they are damaged, harvested, or the insurance

period ends. This insurance protection is provided in exchange for a premium paid by the insured farmer. If the crop is damaged beyond the policy's guarantee threshold, an indemnity is paid to the farmer.

Under the terms and conditions of each crop insurance policy, the premium is earned and payable at the time of planting. As an accommodation to farmer cash flow considerations, FCIC has historically permitted premiums to be paid at the time of harvest.

Crop insurance policies also require an insured farmer to notify the insurer of any intent to abandon, destroy, or convert the crop to another use. This notification enables the insurer to assess the status of the crop, anticipated production, and the level of indemnity if one is required.

FCIC has identified a situation which does not appear to be consistent with intended crop insurance terms and conditions. This situation involves wheat, and other similar crops, which are planted, insured, and then subsequently destroyed to comply with other USDA requirements, or converted to other uses such as grazing when market prices for cattle are attractive.

In this situation, a past practice has developed which permitted farmers to plant wheat, obtain insurance protection as of the planting date, receive insurance coverage for several months, and then decide to destroy the acreage to comply with other USDA programs or graze the wheat. When the acreage was destroyed or grazed, the farmer was permitted to revise the required acreage report after the final reporting date and was not required to pay the premium for the insurance protection received.

This practice violates crop insurance terms and conditions in several ways:

(1) Premiums are earned and payable at the time of planting. It is not appropriate to waive premiums after coverage has been provided. To do so is tantamount to providing insurance policy protection for free.

(2) The final acreage report date establishes the commitment the insurer makes to the farmer and the premium the farmer must pay. The insurer is not able to unilaterally alter the insurance commitment after the final acreage report date, nor should the farmer be able to do so.

(3) The farmer's decision to abandon, destroy, or convert acreage to another use requires notice to the insurer to enable the insurer to assess the status of the crop. Farmers need to adhere to this requirements.

(4) This practice is not actuarially sound nor consistent with insurance principles. Adverse selection against the

insurer results when indemnities are required for crop failure and no premiums are paid for crop success on acreage converted to another use.

FCIC recognizes that there are practical reasons for farmers to support continuation of this practice. Clearly, the free insurance protection is attractive. The ability to judge the relative merits of crop insurance, other USDA programs, or other uses (grazing) at a time when crop and market conditions are known, is attractive to farmers. However, this practice places insurers in serious financial jeopardy.

As a result, FCIC is providing advance notice of plans to enforce these crop insurance policy terms, beginning with its 1993 crop year. Henceforth, FCIC plans to require premiums to be paid for the acreage insured as of the final acreage reporting date. FCIC plans to assess production to count at the guarantee level for any acreage destroyed, or converted to another use, when proper and timely notice is not given by the insured farmer.

FCIC is mindful that there may be other methods available to address this situation. In order to reach a determination which is equitable for insured farmers, the insurance industry, FCIC and the taxpayer, FCIC is seeking comments from all interested parties. Written comments should be sent to Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250.

All written comment received pursuant to this notice will be available for public inspection and copying in the Office of the Manager at the above address, during regular business hours, Monday through Friday.

Done in Washington, DC on April 9, 1992.

James E. Cason,
Manager, Federal Crop Insurance Corporation.

[FR Doc. 92-10084 Filed 4-29-92; 8:45 am]

BILLING CODE 3410-08-M

Forest Service

Exemption of Salvage Timber Sale Project From Appeal

AGENCY: Forest Service, Northern Region, USDA.

ACTION: Notification that a salvage timber sale project is exempted from appeals under provisions of 36 CFR part 217.

SUMMARY: In December of 1990, a windstorm caused extensive blowdown to standing trees and damage to

remaining trees on approximately 700 acres of the Flathead National Forest. The damaged area is located approximately 7 miles southeast of Marias Pass near the Continental Divide. Damage varies in intensity and ranges from over 95 percent windthrow to fringe areas that have less than 30 percent of the trees blown over. A portion of the remaining trees in the affected stands have broken tops or damaged root systems.

In June of 1991, the Hungry Horse District Ranger proposed salvage of commercial sawtimber damaged by the windstorm. The District Ranger modified the proposed action in December of 1991 to include salvage of commercial sawtimber on 641 acres; reforestation and revegetation of affected sites; and reconditioning of existing roads to improve roadway drainage and stabilize sediment-producing sites along roadways.

The Forest Supervisor has determined, through environmental analysis documented in the Environmental Assessment (EA) for the Challenge Blowdown, that there is good cause to expedite these actions for rehabilitation of National Forest System lands and recovery of damaged resources. Salvage of commercial sawtimber within the blowdown area must commence no later than spring or summer of 1992 to avoid: (1) Further deterioration of sawtimber, (2) the potential for epidemic infestations of spruce bark beetle, (3) potential for wildfire, (4) continued loss of wildlife and fisheries habitat effectiveness, (5) continued reduction of visual quality, (6) loss of timber production capabilities caused by delayed regeneration of timber stands, and (7) potential watershed damage.

This notification that the decision to implement the Challenge Blowdown Salvage Timber Sale on the Flathead National Forest is exempted from appeal in conformance with the provisions of 36 CFR 217.4 (a)(11).

EFFECTIVE DATE: April 30, 1992.

FOR FURTHER INFORMATION CONTACT:

Joel Holtrop, Forest Supervisor, Flathead National Forest, 1935 3rd Avenue East, Kalispell, Mt. 59901.

SUPPLEMENTARY INFORMATION:

In December of 1990, a windstorm caused extensive blowdown to standing trees and severe damage to remaining trees on approximately 700 acres of the Flathead National Forest. The damaged area is located approximately 7 miles southeast of Marias Pass near the Continental Divide. Windthrow damage varies in intensity and ranges from over 95 percent blowdown in some areas to

fringe areas that have less than 30 percent of the trees blown over. A portion of the remaining trees in the affected stands have broken tops or damaged root systems.

In June of 1991, the Hungry Horse District Ranger proposed salvaging commercial sawtimber killed or severely damaged by the windstorm and other rehabilitation actions. The proposal was modified based upon the need to quickly salvage the timber and initiate rehabilitation action for the following reasons, (a) risk of epidemic outbreak of spruce bark beetle developing in downed spruce and infesting adjacent stands not damaged by the windstorm, (b) the high fire hazard and risk of wildfire that could result in a major wildfire and damage or destroy other forest resources, (c) loss of long-term site productivity because of delayed regeneration on areas with blowdown in excess of 50 percent, (d) risk to critical spawning habitat for the west slope cutthroat trout and bull trout if windthrown trees block fish passage during spawning migrations, (e) reduction in wildlife habitat quality and potential use because areas of concentrated blowdown represent barriers to movement and access for foraging, (f) deterioration in commercial value and utilization of sawtimber as a result of cracking or "checking" from rapid drying, and (g) the need to stabilize sediment sources along existing roads. Initial scoping of issues began in July of 1991. A second round of scoping actions, responding to modification of the proposed action, was conducted in December of 1991. Environmental issues were identified and are detailed in the Environmental Assessment (EA).

The EA discloses the analysis of four alternatives, including a "no action" alternative. Alternatives analyzed investigated actions ranging from treatment of 641 acres to 355 acres, and analysis of no treatment. Estimated salvage of commercial sawtimber ranges from a high of 7 MMBF to no salvage operations.

The Selected Alternative (Alternative 2A) will harvest 641 acres of blown down and severely damaged timber and salvage an estimated 7 MMBF of commercial sawtimber. Harvest methods include 363 acres of conventional harvest systems (skyline or tractor) and 278 acres of harvest using helicopter yarding. No new permanent roads would be built. Existing roads would be used to accomplish harvest activities. Four short, temporary roads have been identified to access helicopter landing

sites and units designated for cable (skyline) yarding. Routine road maintenance activities such as blading of road surfaces, cleaning of ditches, and brushing would be done as needed. Roadway drainages would be improved, and sediment-producing sites along roadways would be stabilized.

Delay in removal of dead and damaged trees will reduce commercial sawtimber value and render them unmerchantable. Reduced sawtimber values will preclude the ability to use harvest methods such as helicopter yarding and skyline yarding systems designed to minimize effects on other forest resources. In addition, immediate action is warranted to encourage rapid reforestation by planting conifers and site preparation to increase natural regeneration. Removal of heavy concentrations of blowdown will provide access to these areas for foraging by elk and other ungulates. Removal of blowdown concentrations near or within stream channels will reduce the risk of blockage to fish passage caused by movement or decay of blowdown debris. Road reconditioning activities are designed to reduce the amount of sediment currently produced from existing roads and delivered to critical trout streams, improving fish habitat quality. Additional delays will result in potential damage to presently undamaged resources and would decrease the ability to recover timber and other resources damaged by the windstorm.

To expedite this project, procedures outlined in 36 CFR part 217 (a)(11) are being followed. Under this Regulation the following may be exempt from appeal:

Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena, such as, " * * * severe winds * * * when the Regional Forester * * * determines and gives notice in the *Federal Register*, that good cause exists to exempt such decisions from review under this part.

Based upon the environmental analysis documented in the Challenge Blowdown EA and the Flathead Forest Supervisor's Decision Notice for this project, I have determined that good cause exists to exempt this decision from administrative review. Therefore, upon publication of this notice, this project will not be subject to review under 36 CFR part 217.

Dated: April 23, 1992.

John M. Hughes,
Deputy Regional Forester, Northern Region.
[FR Doc. 92-9946 Filed 4-29-92; 8:45 am]

BILLING CODE 3410-11-M

Oil and Gas Leasing; Helena National Forest, Lewis and Clark County, MT; Environmental Impact Statement, Cancellation Notice

The Helena National Forest has withdrawn its proposal for the preparation of an Environmental Impact Statement (EIS) to disclose the environmental effects of oil and gas leasing and reasonable foreseeable actions resulting from subsequent exploration and development on a portion of the Lincoln Ranger District, Helena National Forest.

The notice of intent, published in the *Federal Register* of March 25, 1991, is hereby rescinded (56 FR 12363-12364).

FOR FURTHER INFORMATION CONTACT: Thomas J. Andersen, Environmental Coordinator, Helena National Forest, 2880 Skyway Drive, Helena, MT 59601; telephone 409-449-5201.

Dated: April 21, 1992.

Ernest R. Nunn,
Forest Supervisor.
[FR Doc. 92-10073 Filed 4-29-92; 8:45 am]
BILLING CODE 3410-1-M

Canton Timber Sales, Umpqua National Forest, Lane County, OR

AGENCY: Forest Service, USDA.

ACTION: Cancellation of an environmental impact statement.

SUMMARY: The Umpqua National Forest gave notice that an environmental impact statement (EIS) would be prepared on several timber sales within North Umpqua Ranger District. The Notice of Intent was published in the March 29, 1991, *Federal Register* (56 FR 13106). This notice is being cancelled because the planning area is located within habitat recently designated by the U.S. Fish and Wildlife Service as critical for the Northern Spotted Owl. In the absence of a recovery plan, a decision has been made to cancel planning in the Canton area until more information is available.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this cancellation to Ed Malmsten, Interdisciplinary Team Leader, North Umpqua Ranger District, 18782 North Umpqua Highway, Glide, OR 97443, phone: (503) 496-3532.

Dated: April 16, 1992.

Lee F. Coonce,
Forest Supervisor, Umpqua National Forest.
[FR Doc. 92-10053 Filed 4-29-92; 8:45 am]

BILLING CODE 3410-11-M

Five Points Timber Sales and Related Projects, Wallowa-Whitman National Forest, Union and Umatilla Counties, OR

AGENCY: Forest Service, USDA.

ACTION: Revision of notice of intent to prepare an environmental impact statement.

SUMMARY: This notice of intent revises the notice of intent to prepare an environmental impact statement (EIS) for the Five Points Timber Sales and Related Projects, Wallowa-Whitman National Forest, Union and Umatilla Counties, Oregon, published on January 2, 1991 in the *Federal Register* (56 FR 61). Following preliminary scoping and environmental analysis, The Wallowa-

Whitman National Forest has modified the proposed action, extended the timeline for release of the draft and final EIS and delayed implementation of the proposal.

This Notice of Intent revises the previous Notice of Intent and makes the following changes:

TIMBER SALES AND ASSOCIATED ROADS

Fiscal year	Sale name	Legal description	Acres	Net MMBF	Road miles	
					C	R
1993	Evans	T1S, R37E WM Sec 35, 36; T2S, R37E WM Sec 1, 2, 12	100	1.2	4.6	0.5
1994	Drumhill	T1S, R37E WM; Sec 15, 21, 22, 27, 28, 34	120	1.8	4.8	2.0
1994	Herron	T1S, R37E WM Sec 11-14, 23, 24	200	6.0	5.6	3.5

Abbreviations used above: T:Township, R:Range, S:South, E:East, WM:Willamette Meridian, MMBF: Million board feet, C:Construction, R:Reconstruction, Sec:Section. The draft EIS is expected to be available for review in September, 1992 with the final EIS released in March 1993.

FOR FURTHER INFORMATION CONTACT:

Questions and comments about this EIS should be directed to Lyle Kuchenbecker, Project Coordinator, La Grande Ranger District, 3502 Highway 30, La Grande, Oregon 97850, telephone (503) 963-7186.

Dated: April 21, 1992.

Bruce L. McMillan,

Land Management Planning Staff Officer.

[FR Doc. 92-10054 Filed 4-29-92; 8:45 am]

BILLING CODE 3410-11-M

Backsight Timber Sale, Wallowa-Whitman National Forest, Baker County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Notice is hereby given that the Forest Service, USDA, will prepare an environmental impact statement (EIS) for a timber sale and related activities. The EIS will tier to the Wallowa-Whitman Land and Resource Management Plan (Forest Plan) & EIS for the Wallowa-Whitman National Forest.

Need for Action. Forest stands in this area are in declining health due to low growth and vigor and composition of host tree species for tussock moth and spruce budworm. The Forest Plan Management Area is MA-3A, Wildlife/Timber. In this area timber management is designed to provide near-optimum coverage and forage conditions on big game winter ranges and selected summer ranges.

Purpose of Action. Improvement of tree health and vigor to improve ecosystem stability by increasing stand resistance to insect infestation and disease and preventing widespread mortality and to meet the goals and objectives of the Forest Plan and specific Management area direction.

Proposed Action. Timber harvest would occur on 101 acres yielding an estimated 1.5 million board feet. Implementation would begin in fiscal year 1994. Harvest would be achieved primarily through evenaged regeneration harvest prescriptions. Harvesting systems would occur by skyline and tractor yarding.

To facilitate logging, 3.0 miles of new roads would be constructed. Sale Area mitigations and enhancements would include: range fencing, erosion seeding, dispersed recreation site improvements, road closures, and water source improvement for wildlife.

The proposed project will be in compliance with the direction in the Forest Plan which provides the overall guidance for management of the area and the proposed project. The direction for this project is specified in the Standards and Guidelines for Management Area 3A and the Visual Quality Objectives.

The proposed project would be implemented within the East Fork Eagle Creek drainage in Fiscal Year 1994 on the Pine Range District. The East Fork Eagle Creek drainage is located approximately 15 miles northwest of Halfway, Oregon. The proposed project area includes a portion of the Little

Eagle Meadows inventoried roadless area. Of the original 8,000 acre inventoried area, 900 acres became part of Eagle Cap Wilderness, 6,000 acres were allocated to a Backcountry Management Area with the remaining 1,100 acres allocated to a Wildlife/Timber Management Area and included in the Backsight Analysis area.

The Wallowa-Whitman National Forest invites written comments and suggestions on the scope of the analysis in addition to comments already received as a result of local public participation activities in the past.

The agency also gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope and implementation of this proposal must be received by May 22, 1992.

ADDRESSES: Submit written comments and suggestions concerning this analysis to Orlanda Gonzales, District Ranger, Pine Ranger District, General Delivery, Halfway, Oregon 97834.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and EIS to Lynne Smith, telephone (503) 742-7511.

SUPPLEMENTARY INFORMATION: The proposed action is developed from appendix C of the Forest Plan. The proposed project is somewhat modified from appendix C based on more refined field reconnaissance and evaluation of the data.

Fiscal year	Sale name	Legal description	Acres	Net MMBF	Road miles
1994.....	Backsight.....	T 6 & 7 S, R 44 E.....	101	1.5	3.0

Abbreviations used above: T: Township; R: Range; S: South; E: East; MMBF: Million Board Feet

Other Related Activities

Related activities would involve the following: recreation enhancement, 3.0 miles of road closures, range fencing, fuels reduction and wildlife habitat enhancement.

This EIS will tier to the Final EIS and Forest Plan. The Forest Plan provides goals and objectives, Forest-wide standards and guidelines, management area standards and guidelines, and management area prescriptions for the various lands on the Forest. This direction provides for management practices that will be utilized during the implementation of the Forest Plan.

The Backsight area consists of an estimated 2,200 acres. This area is entirely within Management Area 3A (wildlife/timber).

The analysis will consider a range of alternatives, including no-action.

Public participation will be especially important at several points during the analysis, beginning with the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, local agencies and other individuals, organizations, or governments who may be interested in or affected by the proposed project. This input will be used in preparation of the draft EIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying major issues to be analyzed in depth.
3. Identifying issues which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives based on themes which will be derived from issues recognized during scoping activities.
5. Identifying potential environmental effects of this project and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.
7. Notifying interested publics of opportunities to participate through meetings, personal contracts, or written comment. Keeping the public informed through the media and/or written material (i.e., newsletters, correspondence, etc.).

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by mid February 1993. At

that time EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The Final EIS (FEIS) is expected to be available for public review by September 1993.

The Forest Service believes it is important to give reviewers notice of this early stage of public participation and of several court rulings related to public participation in the environmental review process.

First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could have been raised at the draft stage may be waived or dismissed by the court if not raised until after completion of the final EIS. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully be considered and responded to in the final EIS.

To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed (see Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

The final EIS is scheduled to be completed by September 1993. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding the proposal. Bob Richmond, Forest Supervisor, Wallowa-Whitman National Forest, P.O. Box 907, Baker City, Oregon 97814, is the Responsible Official. As the Responsible Official, he will decide whether to implement the proposal or a different alternative. The Responsible Official

will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 CFR part 217).

Dated: April 21, 1992.

Bruce L. McMillan,
Land Management Planning Staff Officer.
[FR Doc. 92-10055 Filed 4-29-92; 8:45 am]
BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.
Title: March 12 Employment From IRS Form 941E.

Form Number(s): IRS Form 941E.
Agency Approval Number: 0607-0203.
Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 6,000 hours.
Number of Respondents: 60,000.
Avg Hours Per Response: 6 minutes.
Needs and Uses: The Internal

Revenue Service (IRS) uses Form 941E to determine taxes for employers not covered under the Federal Insurance Contributions Act. These include state and local governments, payers of supplemental unemployment benefits, certain churches and church-controlled organizations, and certain payers of annuities and sick pay. These employers prepare and submit a Form 941E, quarterly, to the IRS. The Census Bureau sponsors and uses responses to Question 1 on the form to update the Standard Statistical Establishment List (SSEL). The SSEL, as a universal sampling frame of U.S. business activity, requires employment data from all sectors of the economy. The Census Bureau has collected this information jointly with the IRS since 1979. Question 1 reads as follows, "Complete for First Quarter Only Number of employees (except household) employed in the pay period that includes March 12th."

Affected Public: State or local governments, Businesses or other for-

profit organizations, and Small businesses or organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395-7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 24, 1992.

Edward Michals,

*Departmental Forms Clearance Officer,
Office of Management and Organization.*

[FR Doc. 92-10063 Filed 4-29-92; 8:45 am]

BILLING CODE 3510-07-F

Foreign-Trade Zones Board

[Docket 10-92]

Foreign-Trade Zone 77—Memphis, TN; Application for Expansion for Subzone 77A Sharp Television, Microwave Oven and Computer Plant, Memphis, TN

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Memphis, Tennessee, grantee of FTZ Subzone 77A, at the Sharp Manufacturing Company of America (Sharp) plant, located in Memphis, Tennessee, requesting authority to expand the subzone and the scope of manufacturing authority. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 15, 1992.

The FTZ Board approved subzone status for the plant in 1984 (Board Order 265, 49 FR 28589, 7/13/84).

Manufacturing authority was granted for the production of television receivers and microwave ovens. The facility (860 employees) currently produces some 4,000 television sets and 3,500 microwave ovens each day.

In December 1991, Sharp began using the plant to assemble portable computers (laptop) using duty-paid parts and components (domestic status merchandise). It now requests authority to manufacture this product under zone procedures.

Foreign materials currently account for all of the value of the finished

portable computers, but the company plans to eventually source a substantial portion of the parts and components domestically. Specific items to be sourced from abroad include printed wiring boards, flat panel display units, computer cabinets, keyboards, adaptors, track balls, power supplies, batteries, floppy disk drives, hard disk drives, capacitors, resistors, and metal screws. Some 13 percent of the finished equipment will be exported.

Zone procedures would exempt Sharp from Customs duty payments on foreign parts that are used in production for export. On its domestic sales, it would be able to choose the duty rate that applies to the finished product (3.9 percent). The duty rates on foreign components range from duty-free to 10 percent. The application indicates that zone savings will help improve the plant's international competitiveness and increase exports. There is currently an antidumping duty order in effect on certain flat panel display units. FTZ Board regulations (as revised, 56 FR 50790-508008, 10/8/91) require privileged foreign status to be elected on any merchandise subject to such orders.

The application also requests authority to expand Subzone Site 1 (currently 40 acres) to include all of the 107 acres owned by Sharp at this location, which is bordered by Sharp Plaza Blvd. on the north, Clark Road on the east, Raines Road East on the south, and Mendenhall Road on the west. The company does not plan at present to activate the additional area, which is intended for the future production of parts for microwave ovens, televisions, and personal computers.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is Rebuttal comments in response to material submitted during the subsequent 15-day period (to 75 days from date of publication).

A copy of the application will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, suite 200, Falls Bldg., 22 North Front Street, Memphis, Tennessee 38103

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th & Constitution Avenue, NW., Washington, DC 20230.

Dated: April 24, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92-10107 Filed 4-29-92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-583-507]

Malleable Cast Iron Pipe Fittings From Taiwan; Intent To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of intent to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping duty order on malleable cast iron pipe fittings from Taiwan. Interested parties who object to this revocation must submit their comments in writing no later than May 31, 1992.

EFFECTIVE DATE: April 30, 1992.

FOR FURTHER INFORMATION CONTACT: Dennis Askey or Melisa Skinner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-4851.

SUPPLEMENTARY INFORMATION:

Background

On May 23, 1986, the Department of Commerce ("the Department") published an antidumping duty order on malleable cast iron pipe fittings from Taiwan (51 FR 18918). The Department has not received a request to conduct an administrative review of this antidumping duty order for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping duty order.

Opportunity to Object

No later than May 31, 1992, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping duty order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration,

International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by May 31, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by May 31, 1992, we shall conclude that the antidumping duty order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: April 24, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-10112 Filed 4-29-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-247-003]

Portland Cement, Other Than White, Nonstaining Portland Cement, From the Dominican Republic; Intent To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on Portland cement, other than white, nonstaining Portland cement, from the Dominican Republic. Interested parties who object to this revocation must submit their comments in writing no later than May 31, 1992.

EFFECTIVE DATE: April 30, 1992.

FOR FURTHER INFORMATION CONTACT: Edward Haley or Robert J. Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On May 4, 1963, the Department of Treasury published an antidumping finding on Portland cement, other than white, nonstaining Portland cement, from the Dominican Republic (28 FR 4507). The Department has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested

parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this antidumping finding.

Opportunity to Object

No later than May 31, 1992, interested parties, as defined in § 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by May 31, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by May 31, 1992, we shall conclude that the antidumping finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: April 24, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-10111 Filed 4-29-92; 8:45 am]

BILLING CODE 3510-DS-M

U.S. and Foreign Commercial Advisory Council; Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The U.S. and Foreign Commercial Service Advisory Council was renewed on April 2, 1992 to advise the Secretary on matters pertinent to operations, programs and services of the U.S. and Foreign Commercial Service (US&FCS) and its related worldwide export promotion programs.

TIME AND PLACE: May 15, 1992, from 10 a.m. to 3:30 p.m. The meeting will take place at the Main Commerce Building, room 3407, 14th Street and Constitution Avenue NW., Washington, DC 20230

AGENDA:

1. Discussion of various proposals to measure the impact of US&FCS programs and services.
2. Other matters as appropriate.

PUBLIC PARTICIPATION: The meeting will be open to public participation; the last five minutes will be set aside for comments and questions.

Approximately 4 seats will be available on a first-come, first-served basis. Please notify Mr. Kevin Mulvey of your intent to attend.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin C.W. Mulvey, Executive Secretary, U.S. and Foreign Commercial Service Advisory Council, room 3802, International Trade Administration, Department of Commerce, Washington, DC 20230.

Dated: April 24, 1992.

Daniel E. Sullivan,

Deputy Assistant Secretary for Domestic Operations.

[FR Doc. 92-10113 Filed 4-29-92; 8:45 am]

BILLING CODE 3510-FP-M

Federal Highway Administration, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Numbers: 92-010 and 92-011.
APPLICANT: Federal Highway Administration.

Instruments: Two (2) Large Capacity Thermoregulated Mixers, Model A271 and a Plate Compactor, Model A284.

Manufacturer: MAP, France.

Intended Use: See notice at 57 FR 6001, February 19, 1992.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments, for the purposes for which the instruments are intended to be used, is being manufactured in the United States.

Reasons: These are compatible accessories for instruments previously imported for the use of the applicants. In each case, the instrument and accessory were made by the same manufacturer. The accessories are pertinent to the intended uses and we know of no comparable domestic accessories which can be readily adapted to the previously imported instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-10109 Filed 4-29-92; 8:45 am]

BILLING CODE 3510-DS-M

Federal Highway Administration**Decision on Application for Duty-Free Entry of Scientific Instrument**

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 91-172. **Applicant:** Federal Highway Administration, McLean, VA 22102. **Instrument:** Pavement Rut Testing Machine, Model A77. **Manufacturer:** Map, France.

Intended Use: See notice at 57 FR 4002, February 3, 1992.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument closely simulates the phenomenon of rutting (permanent deformation due to traffic loading and other environmental factors) in asphaltic concrete materials used in highway research. This capability is pertinent to the applicant's intended purpose and we know of no instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use, which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-10110 Filed 4-29-92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration**Massachusetts Institute of Technology; Notice of Withdrawal of Application for Duty-Free Entry of Scientific Instruments**

Massachusetts Institute of Technology has withdrawn Docket Number 92-017 an application for duty-free entry of a stopped-flow spectrophotometer fluorimeter. We have discontinued processing in accordance with § 301.5(g) of 15 CFR part 301.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 92-10108 Filed 4-28-92; 8:45 am]

BILLING CODE 3510-DS-M

COMMODITY FUTURES TRADING COMMISSION**The National Futures Association's Proposed Financial Requirements Rules and Proposed Interpretive Notice Regarding Member Self-Audit Requirements**

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed registered futures association rule changes.

SUMMARY: The National Futures Association ("NFA") has submitted to the Commodity Futures Trading Commission ("Commission") for its approval proposed amendments to its Compliance Rule 2-26 and Financial Requirements sections 1, 6, 9, 10 and 11 which would revise its capital requirements for member futures commission merchants ("FCMs") and introducing brokers ("IBs"). NFA also has submitted a proposed Interpretive Notice to its Compliance Rule 2-9 which would require each NFA member to review and retain a yearly self-audit questionnaire to be distributed by NFA's Compliance Department.

The Commission has determined that publication of the proposed amendments to Compliance Rule 2-26 and Financial Requirements sections 1, 6, 9, 10, and 11 and the proposed Interpretive Notice to NFA Compliance Rule 2-9 is in the public interest, will assist the Commission in considering the views of interested persons and is consistent with the purposes of the Commodity Exchange Act ("Act").

DATES: Comments must be submitted by June 29, 1992.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC. 20581. Telephone: (202) 254-6314.

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC. 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:**I. Introduction**

By letter dated February 7, 1992, the National Futures Association ("NFA") submitted to the Commission for its approval, pursuant to section 17(j) of the Commodity Exchange Act ("Act"), proposed amendments to Compliance Rule 2-26 and Financial Requirements sections 1, 6, 9, 10 and 11 and a

proposed Interpretive Notice to Compliance Rule 2-9. NFA indicated that it intends to implement the proposed amendments and Interpretive Notice immediately upon receipt of notice of Commission approval.

II. Description of NFA's Proposal**A. Compliance Rule 2-26 and Financial Requirements Sections 9, 10 and 11**

NFA's proposed amendments to Compliance Rule 2-26 and Financial Requirements sections 9, 10 and 11 would establish a sliding scale of capital requirements for NFA member independent introducing brokers ("IBs"). Currently, Commission Regulation 1.17(a)(1)(ii) requires such IBs to maintain a minimum adjusted net capital level of \$20,000 or, if the IB is a securities broker-dealer ("BD"), the greater of \$20,000 or the amount of capital required by Securities and Exchange Commission ("SEC") regulations. NFA's proposed minimum adjusted net capital level for its independent member IBs would equal the greatest of: (1) \$30,000, (2) \$6,000 per office operated by an IB, (3) \$3,000 per associated person ("AP") sponsored by an IB, or (4) any applicable SEC capital requirement. NFA contends that the proposal would correlate an IB's capital requirement with the amount of business it does.

B. Financial Requirements Sections 1 and 6

NFA's proposed amendments to its Financial Requirements sections 1 and 6 would establish alternative capital requirements for member futures commission merchants ("FCMs") according to the number of remote locations operated and APs sponsored by an FCM. Under current NFA Financial Requirements section 1, the minimum adjusted net capital requirement for a member FCM is the greatest of: (1) \$250,000, (2) 4% of segregated funds, or (3) for an FCM/BD, the capital amount required by SEC regulation. NFA proposes to amend Section 1 by adding the two additional alternatives of \$6,000 for each remote location operated by an FCM or \$3,000 for each AP sponsored by an FCM. This proposal parallels NFA's proposed capital requirements for independent IBs and is based upon the same rationale that its members' capital requirements should correspond with the size of their businesses.

The proposed amendment to Financial Requirements Section 6 would make related changes to NFA's early warning

reporting requirements for FCM capital levels.

C. Interpretive Notice to Compliance Rule 2-9

NFA Compliance Rule 2-9 requires each NFA "Member" ¹ to "diligently supervise its employees and agents in the conduct of their commodity futures activities for or on behalf of the Member." NFA has stated that in enforcing its Compliance Rule 2-9 it customarily leaves the exact form of supervision to the supervising Member, thus giving flexibility to each Member to use procedures appropriate to the Member's business operations. NFA believes, however, that each Member should regularly review the adequacy of its supervisory standards.

Accordingly, NFA has proposed an Interpretive Notice to Compliance Rule 2-9 which would require each NFA member to review a yearly self-audit questionnaire to be distributed by NFA. The questionnaires would be categorized by type of membership and would address a member's regulatory responsibilities and responsive procedures. For example, the questionnaires for member FCMs and IBs would include a series of questions pertaining to promotional materials in order to assist such FCMs and IBs in reviewing their materials for compliance with NFA requirements. Similarly, the questionnaires for member CPOs and CTAs would include a list of disclosure document questions.

The Interpretive Notice would require that each member have appropriate supervisory personnel review the questionnaire. Upon such review, a supervisory person would have to sign the questionnaire stating that the member's operations had been reviewed based upon the questionnaire and that they complied with all applicable NFA requirements. A failure to follow requirements of the proposed Interpretive Notice would be considered a violation of NFA Compliance Rule 2-9.

NFA believes that the questionnaires would enable its members to recognize regulatory problems and to revise or strengthen their internal procedures appropriately. Under the proposal, NFA's Compliance Department would distribute the self-audit questionnaires

and all Members would be required to complete the questionnaire and retain it for a period consistent with the requirements of Commission Regulation 1.31. Each recipient would be required to provide the questionnaire for inspection upon request by NFA.

III. Request for Comments

The Commission requests comments on any aspect of NFA's proposed amendments to Compliance Rule 2-26 and Financial Requirements sections 1, 6, 9, 10 and 11 and proposed Interpretive Notice to Compliance Rule 2-9 that members of the public believe may raise issues under the Act of the Commission's regulations. In particular, the Commission has identified the following matters for which comment may be appropriate:

1. Should all IBs be required to be guaranteed by an FCM, thus eliminating any capital requirements for IBs?
2. To what extent are increased capital requirements necessary for independent IBs given that they are not permitted to handle customer funds?
3. What would be the relative costs and benefits and possible increases in regulatory burden that may be imposed by the proposed amendments?

Copies of NFA's proposed rule amendments and Interpretive Notice will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, except to the extent that the proposals may be entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254-6314.

Any person interested in submitting written data, views or arguments on NFA's proposed rule amendments or Interpretive Notice or with respect to other materials submitted by the NFA in support of the proposals should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on April 27, 1992.

Jean A. Webb,

Secretary of the Commission

[FR Doc. 92-10105 Filed 4-29-92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent To Prepare an Environmental Impact Statement on the State of Idaho Range Proposal and Associated Air Force Actions in Idaho

AGENCY: Department of the Air Force, DOD.

Correction

In notice document 92-9237, on page 14565 in the issue of Tuesday, April 21, 1992, make the following correction:

On page 14565, in the 3d column, in the 9th line from the bottom, "July 1, 1991" should read "July 1, 1992."

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92-10072 Filed 4-29-92; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board of the Space and C²I Panel of 1992 Summer Study on Global Reach/Global Power will meet on 18-19 May 1992 from 8 a.m. to 5 p.m. at the Aerospace Corporation, El Segundo, CA.

The purpose of this meeting is to receive briefings, hold discussions and begin report writing on projects related to Space and C²I in support of Global Reach/Global Power. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92-10074 Filed 4-29-92; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Availability of Final Environmental Impact Statement; Life Sciences Test Facility, Dugway Proving Ground, Utah

AGENCY: Department of the Army, Department of Defense.

ACTION: Notice of Availability of Final Environmental Impact Statement (FEIS): Life Sciences Test Facility, Dugway Proving Ground, Utah.

SUMMARY: The Department of the Army, as Executive Agent for the Department of Defense, is responsible for research,

¹ NFA's Articles of Incorporation Article VI, Section 2 and Bylaw 301 define "Member" to include commodity pool operators ("CPOs"), commodity trading advisors ("CTAs"), FCMs and IBs as those terms are respectively defined in the Act.

development, testing, and evaluation of equipment and procedures for biological defense. In a 1988 Draft Environmental Impact Statement (FR, Vol. 53, No. 26, pp. 3768-3769, February 9, 1988), the Army initially proposed to construct a Biological Aerosol Test Facility (BATF) at Dugway Proving Ground, Utah, designed to biosafety level 4 (BL-4) standards. Following extensive evaluation and public comment, the Army concluded that the construction of a consolidated Life Sciences Test Facility (LSTF) with a BL-3 aerosol test capability would meet Army needs. This new alternative action was addressed in a November 1990 Supplement to the Draft Environmental Impact Statement (FR, Vol. 55, No. 228, pp. 49328-49329, November 27, 1990). All comments submitted in writing or in public hearings in response to the Supplemental Draft have been addressed in the FEIS. As part of the Biological Defense Research Program, the LSTF will support DOD activities in testing and evaluation protective equipment, detection devices, and decontamination techniques. The facility will also provide analytical and environmental support for tests on smoke and obscurants and chemical and biological simulants.

ALTERNATIVES: Other alternatives considered include construction of a BATF at a location other than Dugway Proving Ground; use of other existing DOD facilities; continued use of present facilities at Dugway Proving Ground; exclusive use of biological simulants instead of pathogenic organisms; and construction of a BATF at other locations on Dugway Proving Ground. Based on the analysis in the FEIS, it is concluded that construction and operation of the LSTF is the preferred action. Considering the design of the facility, nature of the work, training regimen, safety programs, medical surveillance of the staff, and available medical support, neither construction nor operation of the LSTF poses an unacceptable risk to the onsite workers, nor a reasonably foreseeable risk to the public or the environment.

REVIEW: The Final Environmental Impact Statement, Life Sciences Test Facility, Dugway Proving Ground, Utah, is available for public review. A copy of the document may be obtained by contacting the Dugway Public Affairs Office at commercial telephone (801) 831-2116, or by writing to the following address: Commander, U.S. Army Dugway Proving Ground, STEDP-PA, Dugway, UT 84022-5000. Written comments should be submitted to the same address. Comments on the Final

Environmental Impact Statement must be received not later than 30 days from the publication date of this notice of availability in the **Federal Register**. All comments received will be considered in the Record of Decision on this action.

Lewis D. Walker,

*Deputy Assistant Secretary of the Army,
(Environment, Safety and Occupational
Health) OASA (L&E)*

[FR Doc. 92-10088 Filed 4-29-92; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates/Time of Meeting: 2-4 June 1992.

Time: 0800-1700 hours daily.

Place: Ft. Huachuca, AZ.

Agenda: Members of the 1992 ASB Summer Study, "C2 on the Move" will meet to continue work on the study. In-brief with the Commander, Information Systems Command will include discussions on Desert Storm lessons learned and recommendations concerning C2OTM. Contingency planning and C2OTM impact/requirements will also be discussed. In-brief with the Commander of the Intelligence School will include discussions on Desert Storm lessons learned and recommendations concerning C2OTM. A discussion will include intelligence issues and requirements for command and control while mobile. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92-10079 Filed 4-29-92; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers

Department of the Army

Notice of Intent

AGENCY: U.S. Army Corps of Engineers, Vicksburg District, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS) for construction of levees and/or other measures to control flooding in the Grenada/Futheyville Area, Batupan Bogue Watershed, Grenada County, Mississippi.

SUMMARY: The purpose of the proposed action is to provide flood protection in the predominately urban Grenada/Futheyville area of Batupan Bogue, Grenada County, Mississippi.

FOR FURTHER INFORMATION CONTACT: Wendel King (601) 631-5967, Vicksburg District Corps of Engineers, CELMK-PD-Q, 2101 North Frontage Road, Vicksburg, Mississippi 391-5191.

SUPPLEMENTARY INFORMATION:

1. Proposed Action: The proposed Grenada/Futheyville area flood control measures are components of the Demonstration Erosion Control Project, which was initially authorized by Public Law 98-8, "The Emergency Jobs Appropriations Act of 1983." Public Law 98-50, "The Energy and Water Development Appropriations Act for Fiscal Year 1984," directed joint effort by the U.S. Army Corps of Engineers and the U.S. Department of Agriculture, Soil Conservation Service, for the foothills area of the Yazoo Basin.

2. Alternatives: A range of alternatives to include, but not limited to the following, will be considered: no action, construction of levees providing 100-year flood protection, purchase of easement and/or fee title to certain project areas, and establish floodways in these areas instead of constructing levees.

3. a. A scoping meeting is tentatively scheduled to be held in June 1992 in Grenada, Mississippi. Public notice will be published to inform the general public on location, time, and date. All affected Federal, state, and local agencies and other interested private organizations and parties will be invited to attend.

b. Significant issues tentatively identified include bottom-land hardwoods/wetlands, waterfowl, fisheries, water quality, endangered species, cultural resources, socioeconomic conditions, etc. Additional environmental significance and requirements may be identified during the scoping process.

c. The Soil Conservation Service, Environmental Protection Agency; U.S. Fish and Wildlife Service; the Mississippi Department of Wildlife, Fisheries and Parks; and the Mississippi Department of Environmental Quality will be invited to participate as cooperating agencies.

4. A DEIS will be available for review by the general public during by 93.

Kenneth L. Denton,

Army Liaison Officer for the Federal Register.

[FR Doc. 92-10077 Filed 4-29-92; 8:45 am]

BILLING CODE 3710-PU-M

Department of the Navy**Privacy Act of 1974; Amend Record Systems**

AGENCY: Department of the Navy, DOD.
ACTION: Amend record systems.

SUMMARY: The Department of the Navy proposes to amend four existing systems of records to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendments will be effective on June 1, 1992, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350-2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn Aitken at (703) 614-2004

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, were published in the *Federal Register* as follows:

51 FR 12908, Apr. 16, 1986
 51 FR 18086, May 16, 1986 (DON Compilation changes follow)
 51 FR 19884, Jun. 3, 1986
 51 FR 30377, Aug. 26, 1986
 51 FR 30393, Aug. 26, 1986
 51 FR 45931, Dec. 23, 1986
 52 FR 2147, Jan. 20, 1987
 52 FR 2149, Jan. 20, 1987
 52 FR 8500, Mar. 18, 1987
 52 FR 15530, Apr. 29, 1987
 52 FR 22671, Jun. 15, 1987
 52 FR 45846, Dec. 2, 1987
 53 FR 17240, May 16, 1988
 53 FR 21512, Jun. 8, 1988
 53 FR 25363, Jul. 6, 1988
 53 FR 39499, Oct. 7, 1988
 53 FR 41224, Oct. 20, 1988
 54 FR 8322, Feb. 28, 1989
 54 FR 14378, Apr. 11, 1989
 54 FR 32682, Aug. 9, 1989
 54 FR 40160, Sep. 29, 1989
 54 FR 41495, Oct. 10, 1989
 54 FR 43453, Oct. 25, 1989
 54 FR 45781, Oct. 31, 1989
 54 FR 48131, Nov. 21, 1989
 54 FR 51784, Dec. 18, 1989
 54 FR 52976, Dec. 26, 1989
 55 FR 21910, May 30, 1990 (Updated Navy Mailing Addresses)
 55 FR 37930, Sep. 14, 1990
 55 FR 42758, Oct. 23, 1990
 55 FR 47508, Nov. 14, 1990
 55 FR 48678, Nov. 21, 1990
 55 FR 53167, Dec. 27, 1991
 56 FR 424, Jan. 4, 1991
 56 FR 12721, Mar. 27, 1991
 56 FR 27503, Jun. 14, 1991

55 FR 28144, Jun. 19, 1991
 56 FR 31394, Jul. 10, 1991 (DOD Updated Indexes)
 56 FR 40877, Aug. 16, 1991
 56 FR 46167, Sep. 10, 1991
 56 FR 59217, Nov. 25, 1991
 56 FR 63503, Dec. 4, 1991
 57 FR 2719, Jan. 23, 1992
 57 FR 2726, Jan. 23, 1992
 57 FR 2898, Jan. 24, 1992
 57 FR 5430, Feb. 14, 1992
 57 FR 9246, Mar. 17, 1992
 57 FR 12914, Apr. 14, 1992

The amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of altered systems reports. The specific changes to the systems of records are set forth below followed by the systems of records notices published in their entirety, as amended.

Dated: April 23, 1992.
 L. M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

NO3834-1**SYSTEM NAME:**

Special Intelligence Personnel Access File, (51 FR 18130, May 16, 1986).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with "Naval Intelligence Command, 4600 Silver Hill Road, Washington, DC 20389-5000."

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Name."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Naval Intelligence Command, 4600 Silver Hill Road, Washington, DC 20389-5000."

The request should contain full name, residence address and date and place of birth. A notarized statement or unsworn declaration subscribed to be true under penalty of perjury may be required for identity verification."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves should address written inquiries to the Commander, Naval Intelligence Command, 4600 Silver Hill Road, Washington, DC 20389-5000."

The request should contain full name, residence address and date and place of birth. A notarized statement or unsworn declaration subscribed to be true under penalty of perjury may be required for identity verification."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

* * * * *

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete entry and replace with "Parts of this system may be exempt under 5 U.S.C. 552a(k)(1) and (5), as applicable. An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2) and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager."

NO3834-1**SYSTEM NAME:**

Special Intelligence Personnel Access File.

SYSTEM LOCATION:

Naval Intelligence Command, 4600 Silver Hill Road, Washington, DC 20389-5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian and military personnel of the Department of the Navy and contractors and consultants of the Department of the Navy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to the eligibility of Department of the Navy personnel (civilian, military, contractor and consultant) to be granted access to Special Intelligence which include documents of nomination, personal history statements, background investigation date and character, narrative memoranda of background investigation, eligibility documents for access to special intelligence, proof of indoctrination and debriefings as applicable and record of hazardous activity restrictions assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Act of 1947, as amended; 5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 503, Department

of the Navy; 10 U.S.C. 6011, Navy Regulations; 44 U.S.C. 3101, Records Management by Federal Agencies; Executive Order 12356, National Security Information.

PURPOSE(S):

To permit a determination of an individual's eligibility for access to Special Intelligence information.

This information may be provided to the Department of Defense and all its components to certify Special Compartmented Intelligence (SCI) access status of naval personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, the Department of Energy, the Department of Treasury, and to any other federal agency in the performance of their official duties, to certify SCI access status of Naval personnel.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Active files consist of paper records in file folders and computerized tapes. Inactive files are retained on microfiche.

RETRIEVABILITY:

Name.

SAFEGUARDS:

GSA approved containers located in controlled access spaces.

RETENTION AND DISPOSAL:

Records are retained indefinitely. Inactive files are retained on microfiche.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Intelligence Command, 4600 Silver Hill Road, Washington, DC 20389-5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Naval Intelligence Command, 4600 Silver Hill Road, Washington, DC 20389-5000.

The request should contain full name, residence address and date and place of birth. A notarized statement or unsworn declaration subscribed to be true under

penalty of perjury may be required for identity verification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves should address written inquiries to the Commander, Naval Intelligence Command, 4600 Silver Hill Road, Washington, DC 20389-5000.

The request should contain full name, residence address and date and place of birth. A notarized statement or unsworn declaration subscribed to be true under penalty of perjury may be required for identity verification.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Personal History Statement and related forms from the individual. Access forms and documents prepared by the system manager. Correspondence between system manager and activities requesting access status.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(1) and (5) as applicable.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2) and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

N04064-1

SYSTEM NAME:

Naval Academy Laundry/Drycleaning Charge Account, (51 FR 18133, May 16, 1986).

CHANGES:

SYSTEM NAME:

Delete entry and replace with "USNA Laundry and Drycleaning Charge Account"

SYSTEM LOCATION:

Delete entry and replace with "Laundry and Drycleaning Plant, U.S. Naval Academy, 580 Kingwood Street, Annapolis, MD 21402-5052."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "5 U.S.C. 301, Departmental Regulations; 44 U.S.C. 3101; and Executive Order 9397."

STORAGE:

Delete entry and replace with "Hard copy and magnetic minicassette tape form."

RETRIEVABILITY:

Delete entry and replace with "Name."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Head, Laundry and Drycleaning Plant, U.S. Naval Academy, 580 Kingwood Street, Annapolis, MD 21402-5052."

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves should address written inquiries to the Head, Laundry and Drycleaning Plant, U.S. Naval Academy, 580 Kingwood Street, Annapolis, MD 21402-5052."

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

N04064-1

SYSTEM NAME:

USNA Laundry and Drycleaning Charge Account.

SYSTEM LOCATION:

Laundry and Drycleaning Plant, U.S. Naval Academy, 580 Kingwood Street, Annapolis, MD 21402-5052.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for a charge account with the Naval Academy Laundry and Drycleaning Plant.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information is collected on Form NDW-USNA-DMH-4064/14 and includes applicant's name; Social Security Number; rank (if applicable); branch of service; home and work addresses and telephone numbers. Information required to maintain the charge account records is obtained from and/or recorded on accounts receivable ledgers, journals, charge tickets and check listings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 44 U.S.C. 3101; and Executive Order 9397.

PURPOSE(S):

To establish a charge account at the Naval Academy Laundry and Drycleaning Plant. Information will be used for billing purposes by the officials and employees of the Plant.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Hard copy and magnetic minicassette tape form.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Access to building is restricted to authorized persons only. Record files are not available to personnel not requiring access in the performance of their official duties. This is routinely limited to the billing clerk processing the application and recording activity on the account. Records are secured within a locked office in a locked building on a military installation when not actually in use.

RETENTION AND DISPOSAL:

Hard copy records are retained in the current file area as long as the charge account is active. These records are then retired and kept in secured storage for two years and then destroyed. Cassette tape records are of two types, daily and journal (monthly recapitulation). These tapes are erased on a daily or monthly basis, respectively, during the preparation of the following day's or month's activity record.

SYSTEM MANAGER(S) AND ADDRESS:

Head, Laundry and Drycleaning Plant, U.S. Naval Academy, 580 Kingwood Street, Annapolis, MD 21402-5052.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Head, Laundry and Drycleaning Plant, U.S. Naval Academy, 580 Kingwood Street, Annapolis, MD 21402-5052.

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves should address written inquiries to the Head, Laundry and Drycleaning Plant, U.S. Naval Academy, 580 Kingwood Street, Annapolis, MD 21402-5052.

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual applying for the charge account, from daily laundry and drycleaning will-call tickets (charges for goods and services provided) and from records of payment by charge account holders (check listings).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N04064-2

SYSTEM NAME:

Retail Customer Claim Record, (51 FR 18133, May 16, 1986).

CHANGES:**SYSTEM NAME:**

At beginning of entry, add "USNA".

SYSTEM LOCATION:

Delete entry and replace with "Laundry and Drycleaning Plant, U.S. Naval Academy, 580 Kingwood Street, Annapolis, MD 21402-5052."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete "10 U.S.C. 5031" and replace with "5 U.S.C. 301, Departmental Regulations."

PURPOSE(S):

Delete entry and replace with "To investigate claims for cash or credit settlement for damaged or lost articles."

STORAGE:

Delete entry and replace with "Hard copy form."

RETRIEVABILITY:

Delete entry and replace with "Name of customer and date laundry was turned in for cleaning."

RETENTION AND DISPOSAL:

Delete entry and replace with "Retained in the current file area for one calendar year after the close of the individual's claim. The record is then stored for one more year and then destroyed."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Head, Laundry and Drycleaning Plant, U.S. Naval Academy, 580 Kingwood Street, Annapolis, MD 21402-5052."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Head, Laundry and Drycleaning Plant, U.S. Naval Academy, 580 Kingwood Street, Annapolis, MD 21402-5052. Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves should address written inquiries to the Head, Laundry and Drycleaning Plant, U.S. Naval Academy, 580 Kingwood Street, Annapolis, MD 21402-5052."

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Individual who filed the claim and offices who are processing the claim."

N04064-2

SYSTEM NAME:

USNA Retail Customer Claim Record.

SYSTEM LOCATION:

Laundry and Drycleaning Plant, U.S. Naval Academy, 580 Kingwood Street, Annapolis, MD 21402-5052.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed claims against the Naval Academy Laundry and Drycleaning Plant and appropriation 17X4002 for cash or credit settlement for damaged or lost articles.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information is collected on Form NDW-USNA-DMH-4064/15 and includes claimant's name; Social Security Number; rank (if applicable); home and work addresses and telephone numbers; description, original cost and date of purchase of item(s) for which claim is filed, and circumstances of loss or extent of damage; claim number, disposition, and remarks by approving authority.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 44 U.S.C. 3101; and Executive Order 9397.

PURPOSE(S):

To investigate claims for cash or credit settlement for damaged or lost articles.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Hard copy form.

RETRIEVABILITY:

Name of customer and date laundry was turned in for cleaning.

SAFEGUARDS:

Access to building is restricted to authorized persons only. Record files are not available to personnel not requiring access in the performance of their official duties. This is limited to the official processing of the claim and the clerk who maintains the file and prepares the administrative paperwork. Records are secured within a locked office in a locked building on a military installation when not actually in use.

RETENTION AND DISPOSAL:

Retained in the current file area for one calendar year after the close of the individual's claim. The record is then stored for one more year and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Head, Laundry and Drycleaning Plant, U.S. Naval Academy, 580 Kingwood Street, Annapolis, MD 21402-5052.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Head, Laundry and Drycleaning Plant, U.S. Naval Academy, 580 Kingwood Street, Annapolis, MD 21402-5052.

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves should address written inquiries to the Head, Laundry and Drycleaning Plant, U.S. Naval

Academy, 580 Kingwood Street, Annapolis, MD 21402-5052.

Requesting individuals should specify their full names. Visitors should be able to identify themselves by any commonly recognized evidence of identity. Written requests must be signed by the requesting individual.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual who filed the claim and offices who are processing the claim.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05101-1

SYSTEM NAME:

Safety Equipment Needs, Issues, Authorizations, (51 FR 18143, May 18, 1986).

CHANGES:**CATEGORIES OF RECORDS IN THE SYSTEM:**

Delete entry and replace with "Listings, cards, and other records which list individuals requiring, authorized, or issued prescription or other safety equipment. Such listings may include name, Social Security Number, organization code, date equipment issued, date equipment returned, equipment ID number, etc."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

At end of entry, add "and Executive Order 9397."

PURPOSE(S):

Delete entry and replace with "To determine who needs, is eligible, or has been authorized or issued prescription or other safety equipment for protection."

STORAGE:

Delete entry and replace with "Paper and automated records."

RETRIEVABILITY:

Delete entry and replace with "Name, Social Security Number, or date equipment was issued."

SAFEGUARDS:

Delete entry and replace with "Documents are stored in controlled access space or locked rooms."

RETENTION AND DISPOSAL:

Delete information and replace with "Records are destroyed as information becomes obsolete."

* * *

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer of the activity where assigned."

Requests should contain full name, Social Security Number, and date equipment was assigned (if known), and be signed."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the commanding officer of the activity where assigned."

Requests should contain full name, Social Security Number, and date equipment was assigned (if known), and be signed."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Individual."

* * *

NO5101-1

SYSTEM NAME:

Safety Equipment Needs, Issues, Authorizations.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel whose work requires them to wear, or are issued, protective clothing or equipment, including prescription safety lenses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listings, cards, and other records which list individuals requiring, authorized, or issued prescription or other safety equipment. Such listings may include name, Social Security Number, organization code, date equipment issued, date equipment returned, equipment ID number, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and Executive Order 9397.

PURPOSE(S):

To determine who needs, is eligible, or has been authorized or issued prescription or other safety equipment for protection.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Paper and automated records.

RETRIEVABILITY:

Name, Social Security Number, or date equipment was issued.

SAFEGUARDS:

Documents are stored in controlled access space or locked rooms.

RETENTION AND DISPOSAL:

Records are destroyed as information becomes obsolete.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer of the activity where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Requests should contain full name, Social Security Number, and date equipment was assigned (if known), and be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the commanding officer of the activity where assigned. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Requests should contain full name, Social Security Number, and date equipment was assigned (if known), and be signed.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 92-10031 Filed 4-29-92; 8:45am]

BILLING CODE 3810-01-F

DEPARTMENT OF EDUCATION**Proposed Information Collection Requests**

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before June 1, 1992.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Wallace R. McPherson, Jr., Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT:
Wallace R. McPherson (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Wallace R. McPherson, Jr. at the address specified above.

Dated: April 24, 1992.

Wallace R. McPherson, Jr.,
Acting Director, Information Resources
Management Service.

Office of Bilingual Education and Minority Languages Affairs

Type of Review: Extension.

Title: Biennial Report Form for the
Emergency Immigrant Education
Program.

Frequency: Biennially.

Affected Public: State and local
governments.

Report Burden:

Responses: 474.

Burden Hours: 2,333.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This form requires SEAs to submit a biennial report to the Secretary on expenditures of Emergency Immigrant Education Program funds. The SEAs are also required to report the national origin of the immigrant children in the program. The Department uses the information collected to assess the accomplishments of projects and to report to Congress.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: Performance Report for the Law-
Related Education Program.

Frequency: Expiration or termination
of support.

Affected Public: State or local
government, Non-profit institutions.

Reporting Burden:

Responses: 32.

Burden Hours: 96.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: Non-profit Institutions and State or local governments that have participated in the Law-Related Education Programs must submit this report to the Department. The Department uses the information to assess the accomplishments of project goals and objectives, and to aid in effective program management.

Office of Postsecondary Education

Type of Review: Extension.

Title: Requirements Procedures For
Certification of Need Analysis
Servicers' Systems.

Frequency: Annually.

Affected Public: Business or other for-
profit, non-profit, non-profit institution.

Reporting Burden:

Responses: 70.

Burden Hours: 35.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: Individuals and organizations that operate need analysis systems will enter into agreement with the Department and complete procedural requirements in order to become certified. The Department will use the information to administer the need analysis system for campus-based programs (Perkins Loan, Supplemental Educational Opportunity Grant and College Work-Study), Income Contingent Loan and Guaranteed Student Loan Programs.

Office of Postsecondary Education

Type of Review: New.

Title: Application for Grants Under
the Urban Community Service Program.

Frequency: Annually.

Affected Public: Non-profit
institutions.

Reporting Burden:

Responses: 150.

Burden Hours: 29,400.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This form will be used by State Educational Agencies to apply for

funding under the Urban Community Service Program. The Department uses the information to make grant awards.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Application for Grants Under
Disability and Rehabilitation Research.

Frequency: Annually.

Affected Public: Individuals or
households, State or local governments,
Businesses or other for-profit, Non-profit
institutions, Small businesses or
organizations.

Reporting Burden:

Responses: 800.

Burden Hours: 16,000.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This form will be used by State agencies to apply for funding under the Disability and Rehabilitation Research Program. The Department uses the information to make grant awards.

[FR Doc. 92-10024 Filed 4-29-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Intent To Prepare EIS on Replacement of Long-Term Firm Power Sales Contracts

AGENCY: Bonneville Power
Administration (BPA), DOE.

ACTION: Notice of intent to prepare an
environmental impact statement (EIS)
and conduct public meetings.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, BPA plans to prepare and consider an EIS on alternative principles for new 20-year contracts superseding existing long-term firm power contracts. The contracts are of three types: (1) Utility and federal agency requirements power sales contracts under section 5(b) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act); (2) direct-service industry (DSI) power sales contracts under section 5(d) of the Northwest Power Act; and (3) Residential Purchase and Sale Agreements under section 5(c) of the Northwest Power Act, and the related Exchange Transmission Credit Agreements, between BPA and Pacific Northwest utilities.

DATES AND LOCATIONS: Scoping meetings for the EIS will be held during

1992 in several locations in the region. All interested parties are invited to attend. The first meeting will review the proposed process. Additional meetings are planned later in the process to identify interests, to identify issues, and to develop alternative principles for new contracts. The first meeting will be held at the Sea-Tac Radisson Hotel at the Seattle-Tacoma International Airport, Seattle, Washington on May 13, 1992, from 9 a.m. to 12 noon. Dates, times, and locations of subsequent series of meetings in the scoping process will be published in the *Federal Register*, and in the BPA Journal and Meeting Calendar once the arrangements for the meetings have been completed.

Comments on the scope of the EIS, including environmental issues and alternatives for consideration in the preparation of the draft EIS, should be submitted to the address below. Comments will be accepted until 15 days following the last meeting on alternative principles, probably in the fall of 1992. The draft EIS is expected to be available for public review in the summer of 1993.

ADDRESSES: Written comments should be addressed to the Public Involvement Manager, BPA, P.O. Box 12999, Portland, OR 97212; 503-230-3478; toll-free 1-800-622-4519.

FOR FURTHER PROJECT INFORMATION

CONTACT: For information on the EIS project, call Mr. Don Wolfe, EIS Project Manager, BPA-PG, P.O. Box 3621, Portland, OR 97208, 503-230-5145, or Ms. Shirley Price at 503-230-3478. Callers outside of Portland may call 1-800-822-4519.

Information may also be obtained from:

Mr. George E. Bell, Lower Columbia Area Manager, suite 243, 1500 NE Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Robert N. Laffel, Eugene District Manager, room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-465-6952.

Mr. Wayne R. Lee, Upper Columbia Area Manager, room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-353-2518.

Ms. Carol S. Fleischman, Spokane District Manager, room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-353-2907.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, room 307, 301 Yakima Street, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Terence G. Esvelt, Puget Sound Area Manager, P.O. Box C19030, suite 400, 201 Queen Anne Avenue North, Seattle, Washington 98109-1030, 206-553-4130.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, 101 West Poplar, Walla Walla, Washington 99362, 509-522-6225.

Mr. Richard Itami, Idaho Falls District Manager, 1527 Hollipark Drive, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Thomas H. Blankenship, Boise District Manager, room 450, 304 N. 8th Street, Boise, Idaho 83702, 208-334-9137.

FOR FURTHER INFORMATION ON GENERAL DOE NEPA PROCEDURES OR THE STATUS OF A NEPA REVIEW, CONTACT: Carol M. Borgstrom, Director, Office of NEPA Oversight, EH-25, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, 202-586-4600 or 1-800-472-2756.

SUPPLEMENTARY INFORMATION: BPA was created by Congress in 1937 to transmit and market power from Bonneville Dam. BPA now markets power from 30 hydroelectric projects and two nuclear plants in the Pacific Northwest. Since 1937, BPA has marketed large amounts of power under successive 20-year firm power sales contracts with utilities and DSIs. In 1980, Congress supplemented BPA's marketing responsibilities with resource development obligations designed to enable BPA to meet electrical load growth among its utility customers, and provisions for exchanges of power between BPA and utilities to make the benefits of low-cost federal power available to utilities' residential and small farm consumers. The Northwest Power Act, which created these additional responsibilities, required BPA to offer new long-term power sales contracts to its firm power customers within 9 months of the passage of the Northwest Power Act. BPA responded to this direction and offered new contracts in August 1981. Customers were allowed a year to sign the new contracts, and most did so before the end of the offer period. The few utility customers that did not sign initially did execute comparable contracts later.

The initial contracts offered pursuant to the Northwest Power Act will expire on June 30, 2001. BPA has concluded that it is time to begin planning for replacement contracts. In order to allow time for utilities or other sponsors to develop resources to be acquired by BPA to meet load growth, the current contracts provide for a 7-year notice period before utilities can place load on BPA. The new contracts will clarify the responsibilities of BPA and its customers for meeting load growth in the year 2001 and beyond. To maintain a period in which to develop the resources required to meet these responsibilities, replacement contracts should be executed by mid-1994. In addition, DSI's are to notify BPA by June 30, 1993,

whether they intend to request follow-on contracts after their current contracts expire. The DSI power sales contracts provide that BPA inform the DSIs of its ability and intent to negotiate a follow-on contract by that time. For these reasons, BPA is preparing to develop new contracts during the next few years.

Because there is no statutory deadline for offering successor contracts comparable to the 9-month deadline for offering the initial Northwest Power Act contracts, renegotiation provides an opportunity to more fully consider issues addressed in the contracts. The limited negotiation period in 1981 required the parties to make decisions quickly on issues which might have benefited from additional discussion. By starting the process well in advance of the expiration of the existing contracts, participants will be better able to complete consideration of issues affecting the terms of the contracts.

Another aspect of renegotiation is the need to address new issues which have arisen since 1981. For example, during the period since the contracts were executed, the region experienced a period of large surpluses of power which stimulated utilities to increase their power marketing efforts both within and outside the region. This marketing experience has affected resource planning by enabling some utilities to develop resources ahead of their own needs and market surplus resource output until it is required for their own loads. Greater utility activity in resource development and marketing may suggest changes in the new contracts to shift emphasis away from the central BPA role in resource development that is contemplated under the existing contracts.

Proposed Actions

BPA proposes to enter into new 20-year contracts that will replace existing contracts that expire on June 30, 2001. The types of existing contracts involved are requirements contracts with utilities, limited requirements contracts with direct-service industries, and residential exchange contracts with utilities.

Anticipated Scope of Environmental Analysis

The environmental analysis of alternatives for new contracts is expected to address broad policy issues which affect the impacts of contract provisions on the environment. The principal known policy areas are: The allocation of resource development risk between BPA and its customers, the promotion of social or environmental goals through contract provisions, and

the development of variations in contract terms based on differences among customers.

Analysis of environmental impacts of hydro operations and new resource development is expected to rely significantly on analyses of impacts currently under development of the System Operation Review EIS and the Resource Program EIS, as discussed below. Key environmental concerns known to arise from contract terms addressing the above policy areas are effects on the operation of hydro resources (within the limits established by the System Operation Review), effects on the operation of thermal resources, influence on the development of new power resources, and socioeconomic effects.

Some examples of types of alternatives which may be studied for the EIS include:

1. Renewing existing contracts without change.
2. Limiting contract changes to clarifications or administrative improvements.
3. Offering uniform requirements contracts to both utilities and DSIs.
4. Offering new BPA services and charges.
5. Enhancing transmission access for bulk power sellers and buyers.
6. Offering different categories of quality of power.
7. Establishing conditions, including incentives for energy conservation, to promote desirable system load shapes.
8. Offering block sales of firm power instead of requirements service.
9. Developing customized contracts with individual customers.
10. Tailoring DSI restriction rights to the type of operation served.

The EIS scoping process will provide opportunities for participants to identify other issues and alternatives for consideration in the EIS. BPA staff will evaluate all issues and alternatives identified in the scoping process to determine reasonable alternatives for detailed analysis in the EIS. The Implementation Plan for the EIS, which will be prepared following the scoping process, will address all of the alternatives and explain the basis on which BPA determines which alternatives receive further study in the EIS.

Related BPA National Environmental Policy Act Processes

In addition to this EIS, BPA is preparing two other major programmatic EIS's which are scheduled to be completed while this EIS is under preparation. The first such EIS concerns BPA's Resource Program. The biennial Resource Program articulates the plan BPA will use in meeting its load obligations and explains the analytic

basis for that plan and the reasons it is preferred over alternative resource plans. The Resource Program EIS will evaluate environmental effects of different types of energy resources, tradeoffs among resources and cumulative effects of adding resources to the existing system. This analysis will support EIS analysis of replacement contracts with respect to the effect of contract provisions on customer resource development decisions.

The second programmatic EIS, the System Operation Review EIS, could lead to decisions affecting regional hydropower capability or operating flexibility. The process will lead to the adoption of a System Operation Strategy that will establish limits on hydro operations. Given these limits, alternatives for replacement contracts may result in variations in the impacts of hydro operations, but only within the range allowed under the System Operation Strategy.

Process for Contract Renegotiation

BPA plans a public process to secure the input of interested participants. The process is designed to focus on the interests which must be addressed by replacement contracts so as to promote an open discussion and evaluation of alternative contract provisions.

As noted above, BPA will hold scoping meetings to establish the range of alternatives to be considered in the EIS. BPA will also form a Contract Renegotiation Working Group to provide input from interested parties in developing alternatives and in preparing the EIS analysis of the alternatives. Attendance at Working Group meetings will be open to the public; times and locations will be published in the BPA Journal and Meeting Calendar. BPA and customer groups and public interest groups have formed a Contract Process Committee which will review plans for the proposed process, including public involvement, to ensure that there are sufficient opportunities for interested persons and groups to participate in developing new contracts.

Current plans call for participants in the process first to work together to identify affected interests and then to identify issues to be resolved in the renegotiation process. Alternative principles will be evaluated based on their effectiveness in resolving issues and addressing interests identified.

The alternatives will be analyzed in the draft EIS, which will be distributed in draft form for public review and comment. Public comments received during the review of the draft EIS will be analyzed and used as input in the selection of a preferred alternative and

to determine revisions necessary in the final EIS.

BPA and its customers will jointly identify a preferred alternative set of principles for each type of contract, which will be included in the final EIS. Concurrently with the preparation of the final EIS, BPA and its customers will negotiate contract terms to express the provisions in the preferred alternative.

After the final EIS is completed, BPA will prepare a Record of Decision addressing the issues raised in the EIS and BPA's decisions on each of those issues, based on public input from the EIS process and negotiations with its customers. When the Record of Decision is signed, BPA will offer replacement contracts to its customers.

Issued in Portland, Oregon, on April 23, 1992.

Randall W. Hardy,

Administrator, Bonneville Power Administration.

[FR Doc. 92-10244 Filed 4-29-92; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administrator, Energy.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. No. 96-511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (a DOE component which term includes the Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to

obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed by June 1, 1992. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395-3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (E1-73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 254-5348.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Energy Information Administration.
2. EIA-871A/F.
3. 1905-0145.
4. Commercial Buildings Energy Consumption Survey.
5. Revision.
6. Triennial.
7. Mandatory.
8. State or local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, and Small businesses or organizations.
9. 19,200 respondents.
10. 0.333 responses.
11. 0.722 hours per response.
12. 4,622 hours.
13. EIA-871A/F collects data on energy consumption by commercial buildings and the characteristics of these buildings. The surveys fulfill planning, analyses and decision-making needs of DOE, other Federal agencies, State governments, and the private sector. Respondents are owners/managers of selected commercial buildings and their energy suppliers.

Statutory Authority: Sec. 5(a), 5(b), 13(b), and 52, Pub. L. No. 93-275, Federal Energy

Administration Act of 1974, 15 U.S.C. § 764(a), 764(b), 772(b), and 790a.

Issued in Washington, DC, April 23, 1992.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 92-10126 Filed 4-29-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP92-198-000; CP92-198-001; CP92-376-000]

Kern River Gas Transmission Co., et al.; Intent To Prepare an Environmental Assessment for the Kern River-Mojave Pipeline Expansion Projects and Request for Comments on Its Scope

April 28, 1992.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) on the facilities proposed in the above-referenced dockets pertaining to expansion of the Kern River and Mojave Pipeline Systems.

Kern River Gas Transmission Company (Kern River), pursuant to section 7 of the Natural Gas Act, and 18 CFR 157, subpart A, of the Commission's regulations, is seeking a certificate of public convenience and necessity to expand the capacity of its interstate pipeline system, as well as the portion of that system (the "Common Facilities") which is jointly owned with Mojave Pipeline Company (Mojave). In a companion filing Mojave, pursuant to sections 7(b) and 7(c) of the Natural Gas Act, and 18 CFR 157, subpart E, of the Commission's regulations, is seeking an optional certificate of public convenience and necessity to expand the capacity of its pipeline system and the Common Facilities. The individual systems and the Common Facilities were previously certificated in Docket Nos. CP89-1-002 (Mojave) and CP89-2048-000 (Kern River). Because of the interdependent nature of the filings, the two proposals will be addressed in a single EA.

By this notice, the FERC staff is requesting comments on the scope of issues to be addressed in the EA, which will be limited to the construction and operation of the facilities proposed in the two applications. All comments will be reviewed prior to the preparation of the EA. Comments should focus on potentially significant environmental effects and measures to mitigate resultant impacts. Written comments must be submitted by May 28, 1992, in accordance with the "Comment

Procedures" discussed at the end of this notice.

Kern River

On November 19, 1991, Kern River filed an application with the Commission in Docket No. CP92-198-000 for authorization to construct, own, and operate additional compression and pipeline facilities as part of its transmission system from southwestern Wyoming to southern California. The proposed facilities would increase Kern River's transportation capacity by 451,756 thousand cubic feet of natural gas per day (Mcf/d), i.e., from the presently-authorized 700,000 Mcf/d to 1,151,756 Mcf/d. Kern River seeks authorization of two alternative cases. The Primary Case is based on the assumption that Mojave will be granted authority in its companion application to expand its system capacity by 200,000 Mcf/d. The Alternative Case would be utilized in the event that Mojave does not expand. The facilities proposed for both the Primary and Alternative Cases are listed on Table 1, and the location of the project is shown on Figures 1 and 2.¹

The Primary Case would include construction of: (1) Seven new compressor stations (Anschutz, Salt Lake City, Elberta, Milford, Veyo, Dry Lake, and Daggett) totaling 134,100 horsepower of compression along Kern River's existing pipeline system in Wyoming, Utah, Nevada, and California; (2) an additional 24,800 horsepower of compression at two existing compressor stations (Fillmore and Goodsprings) in Utah and Nevada; (3) 19 miles of 36-inch-diameter loop (West Side Loop) adjacent to the Common Facilities in Kern County, California; (4) a new 30.1-mile-long, 30-inch-diameter pipeline (Adelanto Lateral), extending south from the Common Facilities near Kramer Junction to Southern California Gas Company's (SoCal) existing Adelanto Compressor Station in San Bernardino County, California; (5) compressor restaging and additional gas cooling facilities at the existing Muddy Creek Compressor Station in Wyoming; and (6) taps, valves, measurement and other facilities, including a new measurement station at the junction of the Common Facilities and the Adelanto Lateral, as necessary to render the proposed expanded transportation services.²

¹ The figures referred to in this notice are not being printed in the Federal Register, but have been included in the mailing to all those receiving this notice. Copies are also from the Commission's Public Reference Branch, room 3104, 941 North Capitol Street, NE., Washington, DC 20426 or call (202) 208-1371.

² All horsepower is given as site-rated horsepower.

While the proposed West Side Loop would be jointly built, owned and operated by Kern River and Mojave, the Adelanto Lateral would be solely owned by Kern River and not part of the Common Facilities. The estimated cost of the Primary Case expansion is \$308,218,000 in 1993 dollars. The proposed facilities would enable Kern River to transport approximately 294,800 Mcfd to the terminus of the Adelanto Lateral, and an additional 158,000 Mcfd to Kern County.

The West Side Loop would be constructed at a typical 25-foot-offset from the existing West Side Lateral in the southern San Joaquin Valley south of Bakersfield, California. The Adelanto Lateral would be located immediately west of and adjacent to existing overhead transmission lines and U.S. Route 395 for most of the distance between Kramer Junction and the interconnection with SoCal. North of Adelanto, the proposed route would bend due south to pass approximately one mile west of Adelanto.

The Alternative Case differs only slightly from the Primary Case. If Mojave does not expand its facilities, then Kern River would reduce the length of the proposed West Side Loop from 19 miles to 4.9 miles of 36-inch-diameter looping, and install an additional 4,200-horsepower compressor unit at the new Daggett Compressor Station in San Bernardino County, California. The Alternative Case facilities are estimated to cost \$311,412,000 in 1993 dollars.

Mojave

On February 28, 1992, Mojave filed an application with the Commission in Docket No. CP92-376-000 to expand its existing interstate natural gas pipeline which extends from Topock, Arizona to near Bakersfield, California, principally through additional compression facilities and construction of a new lateral. In order to provide it with maximum flexibility to meet anticipated market needs, Mojave proposed three cases by which expansion could be accomplished. All three cases include: (1) Construction of a new 36.5-mile-long, 12-inch-diameter pipeline (Kramer Junction Lateral) extending north from the Common Facilities near Kramer Junction to near Searles, California; and (2) construction of a new metering station (Searles Meter Station) at the northern end of the Kramer Junction Lateral. The Kramer Junction Lateral would follow an existing Pacific Gas and Electric Company pipeline and/or U.S. Route 395 for most of its length between Kramer Junction and the Searles Valley. The Lateral would be solely owned by Mojave. The facilities

for all three cases are listed on Table 2, and the project location is shown in Figure 2.

Mojave's Case 1 is a companion filing to the previously described Primary Case facilities proposed by Kern River, i.e., it assumes that the West Side Loop and the other facilities proposed in Kern River's Primary Case would be constructed. In addition to the Kramer Junction Lateral and Searles Meter Station, Mojave's Case 1 would include: (1) Expansion of the existing Topock Compressor Station from 12,240 to 22,440 horsepower; (2) construction of a new 21,803-horsepower Daggett Compressor Station at Mojave's existing Mojave/Kern River Interconnect Meter Station near Daggett, California; and (3) modifications of three existing meter stations (Mojave/Kern River Interconnect, SoCal, and 17-Z), all in California. Case 1 would increase Mojave's system capacity by 200,000 Mcfd (from 400,000 Mcfd, as presently authorized, to 600,000 Mcfd) and is estimated to cost \$74,210,000 in 1993 dollars. Taken together with Kern River's proposed Primary Case expansion, the net result would be to increase the capacity of the Common Facilities to approximately 652,000 Mcfd.

Case 2 would be very similar to Case 1, except it assumes no expansion by Kern River. In addition to the Kramer Junction Lateral and Searles Meter Station, Mojave's Case 2 would include: (1) Expansion of the existing Topock Compressor Station from 12,240 to 22,440 horsepower; (2) construction of a new 14,945-horsepower compressor station at Mojave's existing Mojave/Kern River Interconnect Meter Station; and (3) modifications of the existing Mojave/Kern River Interconnect, SoCal, and 17-Z Meter Stations. Case 2 would also require Mojave to construct a new 7,034-horsepower Daggett Compressor Station on the Kern River System (on a site adjacent to Mojave's existing Interconnect Meter Station). These facilities would constitute a stand-alone project, allowing Mojave to increase its system capacity by 200,000 Mcfd. The Case 2 facilities are estimated to cost \$77,189,000 in 1993 dollars.

Case 3 would also be a stand-alone project (i.e., assumes no expansion by Kern River), but of smaller scale than Case 2. In addition to the Kramer Junction Lateral and Searles Meter Station, Mojave's Case 3 would include: (1) Expansion of the existing Topock Compressor Station from 12,240 to 17,340 horsepower; and (2) modifications at Mojave's existing Mojave/Kern River Interconnect and SoCal Meter Stations.

Given that Case 3 would again increase system pressure at Mojave's Interconnect Meter Station (where the Mojave and Kern River Systems merge and the Common Facilities begin), Case 3 would require Mojave to modify facilities at this location to ensure that gas delivered by Kern River would continue to enter the Common Facilities. These modifications were not specified in Mojave's application. Case 3 would increase Mojave's system capacity by 80,000 Mcfd, and would cost approximately \$26,323,000 in 1993 dollars.

Construction Procedures

For the new compressor stations proposed by Kern River, preconstruction activities would include land acquisition, topographic surveying, and geotechnical sample boring. Each new compressor station tract would be approximately 30 acres in size, except Salt Lake City, which would be 20 acres. While all sites are presently accessible by road, road improvements would be necessary at the Dry Lake, Veyo, Milford, and Salt Lake City sites. The new Adelanto Meter Station would occupy approximately 2 acres of land adjacent to the take-off point from the Common Facilities. The station area would be fenced, and include a metal building on a concrete foundation to house meter tubes and associated piping and instrumentation. No additional land would be required for the proposed expansion of the Fillmore and Goodsprings Compressor Stations.

Mojave's new Daggett Compressor Station would occupy a 10-acre tract, and be located east of and adjacent to its existing Mojave/Kern River Interconnect Meter Station. Facilities would include an access road, parking lot, compressor buildings, auxiliary building, meters, and related facilities. The proposed new Searles Meter Station would require 10,000 square feet (0.23 acre). The additional compression proposed at the existing Topock Compressor Station and the modifications at the existing Mojave/Kern River Interconnect, SoCal, and 17-Z Meter Stations would be within previously disturbed areas and require no new land.

Actual construction of the new compressor stations is estimated by Kern River to require approximately eight months. A field office and storage facilities would be established at each site, with utilities (telephone and electricity) brought in to each new site. Foundations and pipe support piers would be installed first, followed by the installation of equipment and piping.

and the erection of permanent buildings. After completion of service lines, pipe tie-ins, and testing, final construction procedures would include painting above-ground piping and buildings to blend with the surroundings, road surfacing, and graveling of the yards.

Construction of the West Side Loop and the proposed laterals would follow standard methods such as right-of-way survey and staking, clearing and grading, trenching, pipe stringing, bending, welding, joint coating, and lowering in, backfilling of the trench, and cleanup and restoration. The construction right-of-way for the pipelines proposed by Kern River (the West Side Loop and Adelanto Lateral), would be 100 feet wide. Permanent right-of-way requirements would be limited to 50 feet on Federal lands and would vary on private lands. Offset between the existing West Side Lateral and the proposed loop would typically be 25 feet. Staging areas would occupy plots about 200 by 1,000 feet in size, centered along the right-of-way at each end of the pipeline lateral and loop. Additional work space of up to 200 by 400 feet would be needed on each side of paved roads, railroads, and stream crossings. The depth and width of the pipeline trench would depend on soils and topographic conditions, but are expected to range from 66 to 72 inches and from 54 to 66 inches, respectively.

The Kramer Junction Lateral proposed by Mojave would require a 50-foot-wide construction and operation right-of-way. The pipeline would be covered to a depth of 30 inches in normal soil and 18 inches in consolidated rock, except at road crossings where depths would be 36 inches in normal soils and 24 inches in consolidated rock. At railroad and major road crossings, additional work space of approximately 75 by 300 feet may be required to complete bored crossings of those features. Three block valve stations are planned for Mojave's Kramer Junction Lateral: one at the Common Facilities take-off point, one halfway along the lateral, and one at the Searles Meter Station. At each, permanent aboveground facilities could occupy an area of up to 30 feet square. During pipeline construction, Mojave would also utilize an existing 20-acre site at an industrial yard adjacent to the Mojave Airport as a stockpile area.

Beyond a crossing of the California Aqueduct by the West Side Loop, no perennial streams would be crossed by any of the proposed pipelines. Only two major (named) intermittent streams would be crossed by the pipelines: San Emigdio Creek by the West Side Lateral and Fremont Wash by the Adelanto Lateral. As was done for construction of the original West Side Lateral, horizontal boring would be employed at the California Aqueduct.

Environmental Issues

The EA will address the environmental concerns identified by the FERC staff, intervenors, affected land-management agencies, and interested members of the public. Based on a preliminary analysis of the environmental information provided by the applicants, the following issues have been identified for consideration in the EA:

Vegetation and Wildlife—Potential impact on threatened, endangered, or sensitive plant and animal species and their habitats.

Cultural Resources—Potential impact on properties listed or eligible for listing on the National Register of Historic Places, and traditional cultural properties or other issues of concern to Native Americans.

Soil Resources—Erosion and reclamation/restoration of the right-of-way.

Air and Noise Quality—Potential impact associated with operation of the compressor facilities on noise sensitive areas and regional air quality.

Comments are solicited on any additional topics of environmental concern to residents or others in the project area. However, issues associated with the existing facilities or with previous analyses are outside the scope of this EA. This analysis will not resurrect old issues nor entertain comments on old issues. Recommendations that the FERC staff address specific environmental issues should be supported with a detailed explanation of the need to consider such issues.

Comment Procedures

A copy of this notice and request for comments on environmental issues has been sent to Federal, state, and local

environmental agencies, parties to this proceeding, and the public. Comments on the scope of the EA should be filed as soon as possible but no later than May 28, 1992. All written comments must reference Docket Nos. CP92-198-000 and CP92-376-000 and be addressed to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

A copy of the comments should also be sent to: Mr. Laurence J. Sauter, Jr., room 7312, Federal Energy Regulatory Commission, Environmental Compliance Branch, 825 North Capitol Street, NE., Washington, DC 20426.

The EA will be based on the FERC staff's independent analysis of the proposals and, together with the comments received, will constitute part of the record to be considered by the Commission in the proceedings related to these applications. The EA may be offered as evidentiary material if an evidentiary hearing is held in the proceedings. In the event that an evidentiary hearing is held, anyone not previously a party to the proceedings and wishing to present evidence on environmental or other matters must first file with the Commission a motion to intervene, pursuant to rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

Organizations and individuals receiving this "Notice of Intent to Prepare an Environmental Assessment" have been selected to ensure public awareness of the Kern River and Mojave Pipeline Expansion Projects and public involvement in the review process under the National Environmental Policy Act. The EA will be sent automatically to addresses on the FERC's official service list for these projects, and to the appropriate Federal agencies. However, to reduce printing and mailing costs and related logistical problems, the EA will only be distributed to those other organizations, state and local agencies, and individuals who return the attachment to this notice within 45 days.

Additional information about these proposals is available from Mr. Laurence J. Sauter, Jr., telephone (202) 208-0205.

Linwood A. Watson, Jr.,
Acting Secretary.

TABLE 1.—KERN RIVER EXPANSION PROJECT PROPOSED FACILITIES¹

New pipelines			
Pipeline name	Length/county/state	Outside diameter	Ancillary facilities
West Side Loop ²	19.0 miles Kern, CA	36-inch	One block valve.
Adelanto Lateral	30.1 miles San Bernardino, CA	30-inch	Adelanto Meter Station and one block valve.

New compressor stations		
Station number/name	Milepost/county/state	Site-rated horsepower
6 Anschutz	61.1 Uinta, WY	
13 Salt Lake City	133.0 Salt Lake, UT	19,400
19 Elberta	193.0 Utah, UT	11,000
32 Milford	326.0 Beaver, UT	21,300
40 Veyo	408.4 Washington, UT	10,600
49 Dry Lake	499.1 Clark, NV	21,500
68 Daggett	684.7 San Bernardino, CA ³	23,100
		27,200

Modification of existing compressor stations		
Station No./Name	Milepost/county/state	Action
1 Muddy Creek	0.0 Lincoln, WY	
27 Fillmore	278.2 Millard, UT	Restage compressors.
56 Goodsprings	568.5 Clark, NV	Add 12,300 horsepower.
		Add 12,500 horsepower.

¹ Kern River's Primary Case facilities assume construction of Mojave's Case 1 facilities (see Table 2).

² In Kern River's Alternative Case, the West Side Loop would be reduced to 4.9 miles.

³ In Kern River's Alternative Case, 31,400 horsepower would be installed at the new Daggett Compressor Station.

TABLE 2.—MOJAVE EXPANSION PROJECT PROPOSED FACILITIES

[Case 1¹]

New pipelines			
Pipeline name	Length/location	Outside diameter	Ancillary facilities
Kramer Junction Lateral	36.5 miles, San Bernardino and Kern County, CA	12-inch	Three block valves and a stockpile site at the Mojave Airport.

¹ Mojave's Case 1 facilities assume construction of Kern River's Primary Case facilities (see Table 1).

New compressor stations		
Station name	Location	Horsepower
Daggett	San Bernardino County, CA	21,803

Modification of existing compressor stations		
Station name	Location	Horsepower
Topock	Mohave County, AZ	Add 10,200.

Construction/modification of meter stations	
Station name	Location
Searles (new)	Kern County, CA.
Mojave/Kern River Interconnect (existing)	San Bernardino County, CA.
SoCal (existing)	Kern County, CA.
17-Z (existing)	Kern County, CA.

[Case 2] ²

New pipelines

Pipeline name	Length/location	Outside diameter	Ancillary facilities
Kramer Junction Lateral.....	36.5 miles, San Bernardino and Kern County, CA.....	12-inch.....	Three block valves, and the Mojave Airport stock-pile site.

² Mojave Case 2 and Case 3 are stand-alone projects; they assume no expansion by Kern River.

New compressor stations

Station name (system)	Location	Horsepower
Daggett (Mojave).....	San Bernardino County, CA.....	14,945
Daggett (Kern River).....	San Bernardino County, CA.....	7,034

Modification of existing compressor stations

Station name	Location	Horsepower
Topock Mohave County, AZ.....	Mohave County, AZ.....	Add 10,200.

Construction/modification of meter stations

Station name	Location
Searles (new).....	Kern County, CA.
Mojave/Kern River Interconnect (existing).....	San Bernardino County, CA.
SoCal (existing).....	Kern County, CA.
17-Z (existing).....	Kern County, CA.

[Case 3]

New pipelines

Pipeline name	Length/location	Outside diameter	Ancillary facilities
Kramer Junction Lateral.....	36.5 miles, San Bernardino and Kern County, CA.....	12-inch.....	Three block valves, and the Mojave Airport stock-pile site.

Existing compressor stations

Station name	Location	Horsepower
Topock.....	Mohave County, AZ.....	Add 5,100.

Construction/modification of existing meter stations

Station name	Location
Searles (new).....	Kern County, CA.
Mojave/Kern River Interconnect (existing).....	San Bernardino County, CA.
SoCal (existing).....	Kern County, CA.

Information Request

I wish to receive subsequent published information regarding the environmental analysis being conducted for the Kern River-Mojave Pipeline Expansion Projects.

Name/Agency

Address

City

State

Zip Code

[FR Doc. 92-10022 Filed 4-29-92; 8:45am]

BILLING CODE 6717-01-M

[Project Nos. 2409-042, et al.]

Hydroelectric Applications [Calaveras County Water District, et al.]; Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. *Type of Application:* Amendment of License.

b. *Project No:* 2409-042.

c. *Date Filed:* October 21, 1991.

d. *Applicant:* Calaveras County Water District, San Andreas, California.

e. *Name of Project:* North Fork Stanislaus River Project.

f. *Location:* The project is located on the North Fork Stanislaus River, Stanislaus River, Highland Creek, Beaver Creek, Silver Creek, and Duck Creek in the Counties of Calaveras, Alpine, and Tuolumne, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Steve Felte, General Manager, Calaveras County Water District, P.O. Box 846, San Andreas, CA 95249, (209) 754-3543.

i. *FERC Contact:* Michelle Laabs, (202) 219-3274.

j. *Comment Date:* June 4, 1992.

k. *Description of Amendment:* The licensee proposes to install a turbine at the existing Mill Creek Tap off the Collierville Power Tunnel, utilizing water releases through the Mill Creek Tap and the head differential from McKays Point Dam. The turbine will generate up to 0.93 MW of power, with an estimated average annual energy production of 5,640,000 kWh.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

a. *Type of Application:* New Major License.

b. *Project No.:* 2551-004.

c. *Date Filed:* December 11, 1991.

d. *Applicant:* Indiana Michigan Power Company.

e. *Name of Project:* Buchanan Hydro Project.

f. *Location:* On the St. Joseph River in Berrien County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. B.H. Bennett, Assistant Vice President, American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215, (614) 223-2930.

i. *FERC Contact:* Ed Lee (dt), (202) 219-2809.

j. *Comment Date:* June 29, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached standard paragraph E1.

l. *Description of Project:* The project as licensed consists of the following: (1) A segmented concrete spillway containing, (a) three hydraulically operated steel crest gates, 4.1 feet high, with flow openings of 137.85 feet, 127.90 feet and 92.44 feet, progressing from south to north when facing upstream, and spillway heights of 5.4 feet, 9.1 feet

and 5.4 feet respectively, (b) two sluice gates, one 8 feet and one 6 feet in width, located at the northern end of the spillway when facing upstream; (2) a reinforced concrete access bridge over the headrace channel, formerly serving as a headgate structure, located north of the sluice gates when facing upstream; (3) a reservoir with a surface area of 423 acres and a total volume of 3,895 acre-feet at the normal maximum surface elevation of 637.70 feet NGVD; (4) a concrete fish ladder, located within the island formed by the spillway, powerhouse and headrace channel, approximately 225 feet long and 6 feet wide with vertical baffle slots spaced at 10 foot intervals; (5) a headrace channel, located upstream from the powerhouse, approximately 650 feet in length consisting of an excavated embankment on the north side, a flat earthen bottom approximately 135 feet wide and a vertical concrete wall on the south side; (6) a powerhouse containing 10 generating units for a total installed capacity of 4,104 MW and consisting of (a) a brick structure, the upper portion, approximately 270 feet long, 30 feet wide and 34 feet high, (b) ten concrete turbine pits with dimensions of 40 feet long, 17 feet wide and 25 feet high for units 1-9 and 40 feet long, 20 feet wide and 25 feet high for unit 10, (c) ten concrete draft tube tunnels with dimensions of 26 feet long, 17 feet wide and 10 feet high for units 1-9 and 26 feet long, 20 feet wide and 10 feet high for unit 10, (d) ten vertical shaft, single runner, Francis turbines with a combined maximum hydraulic capacity of 3,800 cfs, all manufactured by James Leffel and Company, units 1-6 rated at 475 hp with 14.5 feet of head and units 7-10 rated at 585 hp with 14 feet of head, and (e) six Electric Machinery Company, 3-phase, 60-cycle, vertical shaft generators, each rated at 384 kW, and four General Electric, 3-phase, 60-cycle, vertical shaft generators, each rated at 450 kW, providing a total plant rating of 4,104 kW; and (7) existing appurtenant facilities. No change are being proposed for this new license. The applicant estimates the average annual generation for this project would be 22,000 MWH. The dam and existing project facilities are owned by the applicant. The existing project would be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. *This notice also consists of the following standard paragraphs:* B1 and E1.

o. *Available Location of Application:* A copy of the application, as amended

and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC, 20426, or by calling (202) 208-1371. A copy is also available for inspection and reproduction at Indiana Michigan Power Company, Hydro Generation, 13840 E. Jefferson Road, Mishawaka, IN, (219) 255-8946.

3a. *Type of Proposal:* Breach of Dam and Decommissioning of Project.

b. *Project No:* P-3706.

c. *Date Filed:* March 12, 1992.

d. *Licensee:* American Hydro Power Co.

e. *Name of Project:* Mussers Dam.

f. *Location:* On Middle Creek in Snyder County, Pennsylvania.

g. *Filed Pursuant to:* Section 6 of the Federal Power Act, 16 U.S.C. 799.

h. *Licensee Contacts:* Mr. Allan S. Miller, American Hydro Power Co., 33 Rock Hill Road, Bala Cynwyd, PA 19004-2010, (215) 668-8143.

Ms. Barbara Jost, Wilkinson, Barker, Knauer & Quinn, 1735 New York Avenue, NW., Washington, DC 20006, (202) 783-4141.

i. *FERC Contact:* Dean C. Wight, (202) 219-2675.

j. *Comment Date:* June 4, 1992.

k. *Description of Proposal:* The timber-frame portion of Mussers Dam does not meet Commission-required factors of safety. The Commission has determined that:

(1) Failure of the dam would endanger downstream life, property, and the environment; and

(2) Repair of the dam, short of total reconstruction, would not result in an acceptably safe structure.

The dam is owned by the Pennsylvania Fish and Boat Commission.

American Hydro Power Co., after consultation with Commission staff, the Pennsylvania Fish and Boat Commission, and others, proposes to breach and remove the timber-frame portion of Mussers Dam. This action would result in the permanent lowering of the upstream water surface elevation from approximately 435 feet mean sea level (m.s.l.) to approximately 416.5 feet m.s.l. American further proposes to decommission the remaining project facilities. All work is expected to be complete by October 31, 1992.

The Commission will require additional information to evaluate this proposal. Upon receipt of all additional information including the information filed in response to this public notice (as described in the following paragraphs) the Commission will evaluate the

proposal under the applicable statutory requirements and take action on the proposal.

l. Comments, Protests, or Motions to Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the comment date shown.

m. Filing and Service of Responsive Documents: Any filing must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the project number shown above. Any of these documents must be filed by providing the original and fourteen (14) copies to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

An additional copy must be sent to: The Director, Division of Project Compliance and Administration, Office of Hydropower Licensing, room 1165UCP, 825 North Capitol Street, NE., Washington, DC 20426.

A copy must also be served upon each licensee contact shown above.

n. Agency Comments: The Commission invites federal, state, and local agencies to file comments on the described proposal. If an agency does not file comments within the time specified for filing comments, the Commission will presume that the agency has none. One copy of an agency's comments must also be sent to each licensee contact shown above.

4a. Type of Application: Surrender of License.

b. Project No.: 7115-023.

c. Date filed: May 9, 1991.

d. Applicant: Municipal Electric Authority of Georgia.

e. Name of Project: George W. Andrews.

f. Location: On the Chattahoochee River in Houston County, Alabama, and Early County, Georgia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Donald L. Stokley, General Manager, 1470 Riveredge Parkway, Atlanta, GA 30328, (404) 952-5445.

i. FERC Contact: Charles T. Raabe (dt), (202) 219-2811.

j. Comment Date: May 29, 1992.

k. Description of Project: The proposed project would have utilized the existing U.S. Army Corps of Engineers' George W. Andrews Dam and Reservoir and would have consisted of: (1) An integral headworks-powerhouse structure approximately 116 feet long and 182 feet wide located on the Alabama side of the dam and containing four turbine-generator units having a total installed capacity of 35.4 MW operating at 18 feet of hydraulic head; (2) a tailrace channel approximately 400 feet long and 197 feet wide; (3) an 18-mile-long 115-kV transmission line; (4) 13.8-kV generator leads and a 13.8/115-kV, 32-MVA transformer; and (5) appurtenant facilities.

Licensee states that the construction and operation of the project is not economically feasible. Therefore, licensee has requested that its license be terminated. The license was issued May 22, 1987, and would have expired April 30, 2037. The licensee has not commenced construction of the project.

The license for Project No. 7115 is the subject of a pending competitive license transfer proceeding. This notice should in no way be construed as prejudging the merits of that proceeding. The surrender application and the competing license transfer applications will be decided contemporaneously.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

5a. Type of Application: Transfer of License.

b. Project No.: 8492-011.

c. Date filed: March 19, 1992.

d. Applicant: Prodek/Hydro Resources Joint Venture, McGee Creek Authority.

e. Name of Project: McGee Creek Project.

f. Location: On McGee Creek in Atoka County, Oklahoma.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: James B. Vasile, Newman & Holtzinger, 1615 L Street, NW., suite 1000, Washington, DC 20036, (202) 955-6654.

i. FERC Contact: Mary Golato (dt), (202) 219-2804.

j. Comment Date: June 5, 1992.

k. Description of Project: Prodek/Hydro Resources Joint Venture proposes to transfer the McGee Creek Project No. 8492 to McGee Creek Authority. The purpose of the transfer is to permit the sale of the project to the McGee Creek Authority, which would control and operate all facilities associated with the water supply function of the project as part of a contract between the McGee

Creek Authority and the U.S. of America.

1. This notice also consists of the following standard paragraphs: B and C.

6a. Type of Application: Surrender of License.

b. Project No.: 8790-003.

c. Date filed: March 23, 1992.

d. Applicant: City of Aberdeen.

e. Name of Project: Wishkah.

f. Location: At Malinowski dam, on the Wishkah River, in Grays County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Robert Salmon, Public Works Director, City of Aberdeen, 200 E. Market, Aberdeen, WA 98520, (206) 533-4100.

i. FERC Contact: Michael Spencer at, (202) 219-2846.

j. Comment Date: May 26, 1992.

k. Description of Proposed Action: The proposed project would have consisted of Malinowski dam and reservoir, a pipeline which is primarily used as municipal water supply, and a powerhouse. The Licensee seeks to surrender its license because the project would be incompatible with filtration at the headworks.

The Licensee states that no construction has been done.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

7a. Type of Application: Surrender of Conduit Exemption.

b. Project No.: 9261-001.

c. Date filed: March 16, 1992.

d. Applicant: City of San Luis Obispo.

e. Name of Project: San Luis Obispo.

f. Location: On the City of San Luis Obispo's conduit water supply system which gets its water from Santa Margarita, a natural pond, in San Luis Obispo County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Gary W. Henderson, Water Division Manager, 955 Morro Street, San Luis Obispo, CA 93401, (805) 781-7237.

i. FERC Contact: Michael Spencer at, (202) 219-2846.

j. Comment Date: May 27, 1992.

k. Description of Proposed Action: The project is constructed and consists of a generating unit at the forebay of the City's water treatment plant. The Exemptee asserts that the project will be rendered unusable when planned modifications for the treatment plant are made.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

8 a. *Type of Application:* Amendment of License.

b. *Project No.:* 9840-010.

c. *Date Filed:* March 20, 1992.

d. *Application:* Appomattox River Water Authority.

e. *Name of Project:* Brasfield Dam.

f. *Location:* On the Appomattox River, in Chesterfield and Dinwiddie Counties, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Richard D. Hartman, Appomattox River Water Authority, 21300 Chesdin Road, Petersburg, VA 23803, (804) 590-1165.

Mr. Mark J. Sundquist, STS HydroPower, Ltd., 111 Pfingsten Road, Northbrook, IL 60062, (708) 272-6520.

i. *FERC Contact:* Ms. Regina Saizan, (202) 219-2673.

j. *Comment Date:* June 1, 1992.

k. *Description of the Request:* The licensee requests that its license be amended to show the redesigned project. The following changes have been made to the proposed project: (1) The powerhouse has been moved west by 50 feet; (2) the penstock intake has been moved to the right side of the raw water intake, as opposed to the left side; (3) the penstock inlet has been changed to a siphon arrangement over the dam crest as opposed to penetrating the concrete abutment of the dam; and (4) fish passage facilities have been provided. In addition, the project's capacity has been reduced from 4.35 MW to 3.0 MW, and the project boundary has been reduced by excluding the licensee's water withdrawal facilities from the project area.

Further, the licensee requests that article 401, which, among other things, requires that the fish passage facilities be constructed at a later date, be revised since the facilities will be constructed at the time that the project is constructed.

Pursuant to section 1075(a) of the Intermodal Surface Transportation Infrastructure Act of 1991 (Transportation Act),¹ on February 10, 1992, the Director, Office of Hydropower Licensing, reissued to Appomattox the previously-rescinded license for Project No. 9840.² In addition to the subject amendment application, on March 11, 1992, Appomattox filed a request for rehearing of its license in which it requests, *inter alia*, that the Commission amend the license by (1) deleting standard license articles (Form-L Articles 10, 12, and 13) reserving the Commission's authority to require

Appomattox to coordinate its project with other projects, follow reasonable Commission rules and regulations, and permit reasonable recreational use of project property, and (2) adding special license articles similar to those approved by the Commission in Niagara Mohawk Power Corporation, 38 FERC ¶ 61,057 (1987), that would acknowledge water supply as the project's overriding use.

1. *This notice also consists of the following standard paragraphs:* B, C, and D2.

9a. *Type of Application:* Minor License.

b. *Project No.:* 10625-001.

c. *Date filed:* March 27, 1992.

d. *Applicant:* Kittitas Reclamation District.

e. *Name of Project:* Taneum Chute Hydroelectric.

f. *Location:* On the Bureau of Reclamation's South Branch Canal in Kittitas County, Washington, partially on U.S. lands administered by the Bureau of Reclamation and the Bureau of Land Management. Township 19 N, Range 17 E.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Lemoyne C. Henderson, Kittitas Reclamation District, P.O. Box 276, Ellensburg, WA 98926, (509) 925-6158.

i. *FERC Contact:* James Hunter at (202) 219-2839.

j. *Description of Project:* The proposed project consists of: (1) A gated intake structure adjacent to the existing Taneum Chute intake; (2) a 36 to 42-inch-diameter, 1,300-foot-long steel penstock; (3) a 50-foot-long, 30-foot-wide powerhouse containing four 190-kW generating units and discharging into the Chute's stilling basin; and (4) a 1700-foot-long transmission line connecting to the Puget Power & Light Company distribution system.

k. In accordance with § 4.32(b)(7) of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate, factual basis for a complete analysis of this application on its merits, they must file a request for the study with the Commission, together with justification for such request, no later than May 26, 1992, and must serve a copy of the request on the Applicant.

10a. *Type of Application:* Amended Application for Preliminary Permit.

b. *Project No.:* 11221-000.

c. *Date filed:* January 8, 1992; Amended April 3, 1992.

d. *Applicant:* Peak Power Corporation.

e. *Name of Project:* Tropicana Modular Hydroelectric Pumped Storage Project.

f. *Location:* Predominantly on lands administered by the Bureau of Land Management near Las Vegas in Clark County, Nevada. T21S, R59E in sections 25, 26, 32, 33, and 34; T21S, R60E in sections 21, 28, 29, and 30; T22S, R59E in section 3 and 4.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Rick S. Koebe, Peak Power Corporation, 10 Lombard Street, suite 410, San Francisco, CA 94111, (415) 362-0887.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219-2827.

j. *Comment Date:* June 4, 1992.

k. *Description of Project:* The proposed pumped storage project would consist of: (1) A 140-foot-high dam and 47-acre upper reservoir at the Blue Diamond Mine; (2) a 10-foot-diameter, 12,500-foot-long penstock connecting the upper reservoir with a lower reservoir; (3) a 60-foot-high dam and 54-acre lower reservoir in a naturally formed desert valley to the east of the upper reservoir; (4) a powerhouse containing two 50-MW generating units; (5) a 7-mile-long transmission line interconnecting with an existing Nevada Power Company transmission line; and (6) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies would be \$200,000.

1. *This notice also consists of the following standard paragraphs:* A8, A10, B, C, and D2.

m. Refiling of comments or motions to intervene in this docket is not necessary. This notice supplements the notice issued February 5, 1992, for the Peak Power Corporation's Project No. 11221.

Standard Paragraphs

A8. *Preliminary Permit*—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may

¹ Public Law 102-240.

² 58 FERC ¶ 62,115 (1992).

be filed in response to this notice. A competing license application must conform with 18 CFR 4.30 (b)(1) and (9) and 4.36.

A10. Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director,

Division of Project Review, Federal Energy Regulatory Commission, room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: April 24, 1992, Washington, DC.
Lois D. Cashell,
Secretary.

[FR Doc. 92-10020 Filed 4-29-92; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. JD92-05952 Wyoming-27]

State of Wyoming; NGPA Notice of Determination by Jurisdictional Agency Designation Tight Formation

April 24, 1992.

Take notice that on April 20, 1992, the Wyoming Oil and Gas Conservation Commission (Wyoming) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Mesaverde Formation underlying a portion of Fremont County, Wyoming, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The notice covers approximately 138,240 acres described as follows:

All Sections

Township 3 North, Range 2 East, 6th p.m.
Township 3 North, Range 3 East, 6th p.m.
Township 4 North, Range 2 East, 6th p.m.
Township 4 North, Range 3 East, 6th p.m.
Township 5 North, Range 2 East, 6th p.m.
Township 5 North, Range 3 East, 6th p.m.

The notice of determination also contains Wyoming's and the Bureau of Land Management's findings that the referenced portion of the Mesaverde Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 92-10042 Filed 4-29-92; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. JD92-05951T Wyoming-26]

State of Wyoming; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formations

April 24, 1992.

Take notice that on April 20, 1992, the Wyoming Oil and Gas Conservation Commission (Wyoming) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Lance-Meeteetse Formations underlying a portion of Fremont County, Wyoming, qualify as a tight formation under section 107(b) of the Natural Gas Policy

Act of 1978 (NGPA). The notice covers approximately 138,240 acres described as follows:

All Sections

Township 3 North, Range 2 East, 6th p.m.
Township 3 North, Range 3 East, 6th p.m.
Township 4 North, Range 2 East, 6th p.m.
Township 4 North, Range 3 East, 6th p.m.
Township 5 North, Range 2 East, 6th p.m.
Township 5 North, Range 3 East, 6th p.m.

The notice of determination also contains Wyoming's and the Bureau of Land Management's findings that the referenced portion of the Lance-Meeteetse Formations meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-10041 Filed 4-29-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-05950T, Wyoming-25]

State of Wyoming; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

April 24, 1992.

Take notice that on April 20, 1992, the Wyoming Oil and Gas Conservation Commission (Wyoming) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Fort Union Formation underlying a portion of Fremont County, Wyoming, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 (NGPA). The notice covers approximately 138,240 acres described as follows:

All Sections

Township 3 North, Range 2 East, 6th p.m.
Township 3 North, Range 3 East, 6th p.m.
Township 4 North, Range 2 East, 6th p.m.
Township 4 North, Range 3 East, 6th p.m.
Township 5 North, Range 2 East, 6th p.m.
Township 5 North, Range 3 East, 6th p.m.

The notice of determination also contains Wyoming's and the Bureau of Land Management's findings that the referenced portion of the Fort Union Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-10040 Filed 4-29-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10779-001, Virginia]

Flannagan Power Co.; Surrender of Preliminary Permit

April 23, 1992.

Take notice that Flannagan Power Company, permittee for the Flannagan Dam Hydro Project located near the town of Clintwood, Dickenson County, Virginia, has requested that its preliminary permit be terminated. The preliminary permit was issued on October 26, 1989, and would have expired on September 30, 1992.

The permittee filed the request on March 27, 1992, and the preliminary permit for Project No. 10779 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 92-10021 Filed 4-29-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-137-006]

Williston Basin Interstate Pipeline Co.; Compliance Filing

April 22, 1992.

Take notice that on April 13, 1992, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, suite 300, Bismarck, North Dakota 58501, tendered for filing revised tariff sheets in compliance with the Commission's Order dated March 12, 1992.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in

accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before April 29, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-9846 Filed 4-29-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Change of Scope of an Existing Federally Funded Research and Development Center

AGENCY: Department of Energy (DOE).

ACTION: Notice of change of scope of an existing Federally Funded Research and Development Center; second of three notices.

SUMMARY: This notice advises interested parties of the intent of the Department of Energy (DOE) to expand the scope and mission of the Stanford Linear Accelerator Center (SLAC), a Federally Funded Research and Development Center (FFRDC), to include the synchrotron radiation research and user support currently being performed at the Stanford Synchrotron Radiation Laboratory (SSRL). Funding for the SSRL activities will be provided under the existing SLAC management and operating contract, DE-AC03-76SF00515.

DATES: Comments on this notice should be submitted to DOE by June 1, 1992. One more notice also will be published which will allow for an additional 30-day comment period.

ADDRESSES: Comments should be forwarded to the Director, Acquisition and Assistance Management Division, Office of Energy Research, ER-64, U.S. Department of Energy, Washington, DC 20585.

SUPPLEMENTARY INFORMATION:

Change of Purpose and Mission

The Federal Acquisition Regulations (section 5.205(b)) requires an Agency to publish three Federal Register notices before changing an FFRDC's purpose and mission. DOE published the first notice announcing DOE's intention to expand the scope of the FFRDC at SLAC on March 30, 1992.

Background

SLAC was established in 1962, and has operated since that time as a single

purpose laboratory engaged in experimental and theoretical research in elementary particle physics, including the development of advances in high-energy accelerators and elementary particle detectors. SLAC is managed and operated for the DOE under Contract DE-AC03-76SF00515, a management and operating contract as defined and regulated in accordance with FAR subpart 17.6, DEAR subpart 917.6, and DEAR part 970. SLAC was designated as an FFRDC on November 1, 1967, and has been operated in accordance with Office of Federal Procurement Policy Letter 84-1 and FAR § 35.017.

The SSRL, located on the SLAC site, was formally established in 1976. It was one of the first major laboratories to develop synchrotron radiation and to make it available to a large community of scientists, who have used it for basic and applied research in biology, chemistry, materials science, solid-state physics, and biomedical research. SSRL is funded by the DOE under a research and development, cost reimbursement contract with Stanford University.

The rationale for merging the two laboratories is based upon a number of reasons, including: The two laboratories share the same site; share use of some facilities; share interests in the development of advanced accelerators; and, both face the need for increased oversight in the areas of environment, safety and health.

The growth and development of the field of synchrotron radiation is another factor in the merger. In 1972, SLAC completed the Stanford Positron Electron Asymmetric Ring (SPEAR), a single ring some 80 meters in diameter, in which counter-rotating beams of electrons and positrons from the SLAC Linac circulate at energies up to about 4 GeV. In 1973, pioneering advances were made at SPEAR in synchrotron radiation (energetic photons generated by the electrons circulating within the ring), leading to the creation of SSRL as a separate laboratory in 1976. Since that time, many beamlines have been brought into regular operation; in addition, SSRL has constructed two beamlines for synchrotron research on the larger Positron Electron Project (PEP) Storage Ring, operated by SLAC for high energy physics. Until recently, SLAC and SSRL (the Laboratory) have used SPEAR and PEP jointly for high energy physics and synchrotron radiation research, with 50% of the SPEAR machine time devoted to each field. In November 1990, SSRL completed construction of a new 3-GeV injector, replacing the SLAC Linac as the source of electrons. This allows

SSRL to be operated independently of the High Energy Physics program at SLAC. Merging the two activities at the same site into a single Laboratory, with a single director, provides the Laboratory with: (1) Improved management over these important research instruments; (2) focussed guidance to maximize the research programs of the facilities; (3) clearer responsibility and authority for managing the Laboratory's activities so as to minimize environmental impacts and maximize safety and health for employees; and, (4) the opportunity for small savings in the administrative areas (reduction in paperwork).

Expanded Mission of SLAC

SLAC will continue as a focal point for high energy electron physics in the United States and will be available to the user community. The Laboratory is responsible for experimental facility operation, high energy accelerator operations and development, advanced accelerator R&D, and central computing, as well as high energy physics user support.

Added to these current SLAC activities at the site will be the ongoing SSRL synchrotron radiation program. SSRL activities include operation of the booster synchrotron, the SPEAR storage ring, synchrotron radiation facilities development, and user support for both the university community and industrial users interested in this area of laboratory technology transfer.

A single, unified Environment, Health and Safety division will have site-wide responsibility for these areas. The Laboratory's administrative group will have its charter expanded to cover SSRL activities.

SSRL is an established laboratory and, although it is not a Federally funded R&D center, it is an essential component of the Nation's capability in providing a balanced array of synchrotron light sources to a large and growing community of user scientists. These facilities are used for research in structural biology, medicine, chemistry, materials science, and solid state physics. SSRL has been a leader in the development of new concepts to generate synchrotron light, especially in the development of wiggler and undulator sources with unprecedented spectral brightness. Such developments have provided the technical basis for the third generation light sources now being constructed at Lawrence Berkeley Laboratory (LBL) (the Advanced Light Source (ALS) will be a high brightness source of Vacuum Ultraviolet (VUV) and soft x-rays) and at Argonne National Laboratory (ANL) (the Advanced Photon

Source (APS) will provide extremely bright beams of hard x-rays). The joining of SSRL and SLAC should enhance the potential for future developments in light sources by bringing the expertise in accelerator physics from SLAC together with the end users—the synchrotron radiation user community of SSRL under one administrative roof.

Alternative Sources

As noted above, SSRL is important in providing balance in the Nation's capability—it provides a strong center for x-ray science on the West Coast and complements the x-ray source at Brookhaven National Laboratory (BNL) on the East Coast. Both facilities are now over-subscribed. If either SSRL or National Synchrotron Light Source (NSLS) should go down, the most important x-ray experiments could not be done. The APS will be another source of hard x-rays in the Midwest when it becomes operational in mid-1996, and will relieve the pressure on SSRL and NSLS.

SSRL is also an important source for experiments in the VUV spectral region serving users on the West Coast. It is now complemented by the VUV source at NSLS, and, again, SSRL and NSLS back each other up. When the ALS becomes operational in mid-1993, some of the VUV experimentation will move from SSRL to ALS; but SSRL will continue to be an important source, particularly for users from the silicon valley region. Thus, SSRL provides balance in the Nation's capability—spectrally and geographically—and will be important in serving a large user community for years to come. Accordingly, existing alternative sources for satisfying the agency's requirements cannot effectively meet the special research and development needs.

Government Expertise for Evaluation

Sufficient Government expertise is available to adequately and objectively evaluate the work to be performed by the expanded FFRDC. The Division of Chemical Sciences, within DOE's Office of Energy Research Basic Energy Sciences Program, has been responsible for program direction and evaluation for SSRL since the Laboratory has been funded by the DOE; the Chemical Sciences staff members will continue to be responsible for the SSRL Division at SLAC. The Division of High Energy Physics, within DOE's Office of Energy Research High Energy and Nuclear Physics Program, was responsible for the creation and construction of SLAC

in 1962 and has been responsible for SLAC's evolving program since that time. The Division will continue to provide the same degree of program guidance to SLAC management concerning high energy physics research and other related activities as it did when SLAC operated as a single purpose laboratory.

Cost Control

DOE regulations, policies and procedures relative to management and operating contracts provide controls to ensure that the costs of the services provided are reasonable. Compliance with these regulations, policies and procedures is monitored by the DOE San Francisco Field Office staff.

Differentiation between FFRDC and non-FFRDC Work

The scope of work of the M&O contract for the combined activities will clearly define the efforts to be undertaken by the single Laboratory. That work scope has been summarized above in the section entitled, Expanded Mission of SLAC

Long Term Support for the Laboratory

The Division of High Energy Physics supports the long-term goals for SLAC, i.e., Stanford Linear Collider (SLC) research and planning for the next linear collider. Within available funding, the Division envisions long term support for SLAC activities as the primary facility for electron physics research. SSRL provides support to several hundred scientists, most of whom receive support from sources other than DOE. The facility serves a number of industrial users and is a key element of the Department's technology transfer program. These facts, coupled with the important advances in biomedicine and material sciences made possible by the Laboratory, support the intent of the Office of Basic Energy Sciences to provide long term funding for this laboratory.

Management by an Autonomous Organization

The FFRDC composed of SLAC and SSRL will be managed and operated by an identifiably separate operating unit of Stanford University.

Issued in Washington, DC, on April 14, 1992.

D. D. Mayhew,

Deputy Director for Management, Office of Energy Research.

[FR Doc. 92-0404 Filed 4-29-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of February 17 Through February 21, 1992

During the week of February 17 through February 21, 1992, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

International Technology Corp. 2/20/92, LFA-0181

On January 28, 1992, the International Technology Corporation (ITC) filed an Appeal from a determination issued to the firm on December 30, 1991 by the Acting Director of the Office of Intergovernmental and External Affairs of the Albuquerque Operations Office of the Department of Energy. In that determination, the Acting Director partially denied the ITC's request for information pursuant to the Freedom of Information Act (FOIA). Specifically, the Acting Director released four subcontracts but deleted pricing schedules contained in three of them pursuant to Exemption 4 of the FOIA. In considering the Appeal, the DOE found that the Acting Director properly withheld the information since the pricing schedules contained proprietary, financial or commercially confidential information which if released would allow a competitor an unfair advantage. Consequently, the Appeal was denied.

Request for Exception

Haynes Oil Co., 2/20/92, Lee-0032

Haynes Oil Company (Haynes) filed an Application for Exception from the provisions of the Energy Information Administration (EIA) reporting requirements in which the firm sought relief from filing Form EIA-782b, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that the firm was not adversely affected by the reporting burden in a way that is significantly different from the burden borne by similar reporting firms. The firm, however, was urged to use estimates rather than actual figures. Although Haynes filed a Notice of Objection to the Proposed Decision and Order, it never filed a Statement of Objections before the time period of 30

days expired. Accordingly, exception relief was denied.

Refund Applications

Atlantic Richfield Co./Consumers Cooperative of Berkeley, Inc., 2/21/92, RF304-11530

On March 6, 1990, the Consumers Cooperative of Berkeley, Inc. (Consumers) filed an Application for Refund based on purchases of refined products from ARCO. Consumers documented its purchases from ARCO during the consent order period and certified that any refund would be passed along to its member patrons. In January 1989, Consumers filed for protection under Chapter 11 of the Bankruptcy Code. However, the General Manager of Consumers, who maintains responsibilities for the debtor, verified that any refund monies will be specifically applied to the funds being assembled to repay the debt. Therefore, Consumers met the requirements for a full volumetric refund based on its purchases of 9,194,870 gallons of ARCO products. This yields a refund of \$10,278, representing \$8,758 in principal and \$3,520 in interest.

County of Hanover, 2/19/92, RF272-69075

The DOE issued a Decision and Order granting a refund application submitted in the Subpart V crude oil proceeding by the County of Hanover, Virginia (Hanover). The DOE received Hanover's application on July 1, 1988. It was not clear whether Hanover's application had been mailed to the DOE and postmarked by June 30, 1988, or delivered by hand on July 1. Thus, there was nothing in the DOE's files to indicate whether Hanover's application was timely filed by June 30, 1988, the first deadline for crude oil refund applications. In order to efficiently process applications that lack indications of a filing date, the DOE adopted the presumption that such an application received by July 5, 1988 was filed by June 30, 1988. If such an application was received after July 5, 1988, the burden will be on the applicant to establish that the application was timely filed. Because Hanover's application was received on July 1, and nothing in the records of the DOE indicated that the application was filed after June 30, the DOE deemed it to be timely filed, and anticipates that additional refunds will be disbursed to Hanover as additional crude oil funds become available.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and

Orders concerning refund applications, which are not summarized. Copies of the

full texts of the Decisions and Orders are available in the Public Reference

Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Duane's Arco #1	RF304-8782	02/20/92
Duane's Arco #2	RF304-8783	
Duane's Village Arco	RF304-8784	
Atlantic Richfield Company/Portland General Electric	RF304-12196	02/20/92
Atlantic Richfield Company/Robert H. Parker Arco Distributor	RF304-9181	02/20/92
Atlantic Richfield Company/Ron's Service Station	RF304-12667	02/19/92
Black Top Paving Co., Inc.	RF272-58290	02/21/92
City of Mauldin et al.	RF272-84006	02/21/92
City of Newton et al.	RF272-84804	02/21/92
City of Palmetto et al.	RF272-84601	02/21/92
Enron Corporation/Farmland Industries, Inc.	RF340-26	02/19/92
Enron Corporation/Progas Inc.	RF340-37	02/21/92
Gulf Oil Corporation/Holiday Gulf et al.	RF300-11713	02/19/92
Gulf Oil Corporation/Murphy Brothers Oil Company, Inc.	RF300-13645	02/19/92
Murphy Brothers Oil Co., Inc.	RF300-13731	
Gulf Oil Corporation/Southern Stevedoring, Inc. et al.	RF300-13566	02/21/92

Dismissals

The following submissions were dismissed:

Name	Case No.
17 Battery Place North Associates	RF272-58477
461 Eight Avenue Associates	RF272-58476
Charles Landry	RF321-11659
City of Montgomery, AL	RF272-89959
Cliff Garner	LFA-184
Dixon County, NE	RF272-85087
First Ave. Texaco	RF321-17876
Greene County Tech. School District	RF272-79839
Harold R. Laraway	RF321-17874
Hood River County, OR	RF272-85135
I 94 & 281 Texaco	RF321-17875
Lakewood Fuel Oil Co.	RF304-12060
Midway Service Station	RF300-14355
Norton County Road Department	RF272-85082
Oak Grove School District 68	RF272-78919
Ollie R. Brest Texaco	RF321-18108
Pollard's Gulf #2 in Ayden	RF300-13954
Pollard's Gulf in Greenville	RF300-13953
Powell's South Side Sinclair	RF304-12076
Richard Cannara	RF300-19404
Roth's Texaco Service	RF321-18106
Scogin Bros. Texaco	RF321-18134
Tippah County Schools	RF272-81883
Town Center Management Corporation	RF272-59805
United Illuminating Co.	RF321-4298
Valley Stream Union Free School District No. 24	RF272-87318
Vincent Ganduglia Trucking	RF327-4
Yakima County, WA	RF272-85217
Yamhill-Carlton UHS District No. 1	RF272-82555
Yell County, AR	RF272-85906

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: April 23, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-10127 Filed 4-29-92; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

April 22, 1992.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: None.

Title: Section 76.206, Lowest unit charge.

Action: Existing collection in use without an OMB control number.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 52,480 responses; 2.5 hours average burden per response; 131,200 hours total annual burden.

Needs and Uses: Section 315(b) of the Communications Act directs broadcast stations (including

community antenna television systems) to charge political candidates the "lowest unit charge of the station" for the same class and amount of time for the same period, during the 45 days preceding a primary or runoff election and the 60 days preceding a general or special election. On 2/12/91, the Commission adopted a Report and Order, MM Docket No. 91-168, Codification of the Commission's Political Programming Policies. This R&O adopted affirmative disclosure requirements obliging cable television systems to disclose and make available to candidates all discount privileges available to commercial advertisers, including the lowest unit charge for the different classes of time sold. Section 76.206 requires cable television systems to disclose any station practices offered to commercial advertisers that enhance the value of advertising spots and different classes of time (immediately preemptible, preemptible with notice, fixed, fire sale, and make good). It also requires cable systems to calculate the lowest unit charge. The disclosures would assure candidates that they are receiving the same lowest unit charge as other advertisers.

OMB Number: 3060-0313.

Title: Section 76.207, Political file.

Action: Revision.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: Recordkeeping requirement.

Estimated Annual Burden: 5,248 recordkeepers; 1.25 hours average burden per recordkeeper; 6,560 hours total annual burden.

Needs and Uses: On 2/12/91, the Commission adopted a Report and Order, MM Docket No. 91-168, Codification of the Commission's

Political Programming Policies. This R&O revised and clarified the interpretation and application of the political broadcasting rules. In so doing, § 76.207 now contains the recordkeeping requirements of the political file that were previously covered under 47 CFR 76.205. Section 76.207 requires every cable television system operator to keep and permit public inspection of a complete record (political file) of all requests for cablecast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the cable system of such request. The data is used by the public to assess money expended and time allotted to a political candidate and to ensure that equal access was afforded to other qualified candidates.

OMB Number: None.

Title: Section 73.1942, Lowest unit charge.

Action: Existing collection in use without an OMB control number.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 269,875 responses; 2.12 hours average burden per response; 572,135 hours total annual burden.

Needs and Uses: Section 315(b) of the Communications Act directs broadcast stations to charge political candidates the "lowest unit charge of the station" for the same class and amount of time for the same period, during the 45 days preceding a primary or runoff election and the 60 days preceding a general or special election. On 2/12/91, the Commission adopted a Report and Order, MM Docket No. 91-168, Codification of the Commission's Political Programming Policies. This R&O adopted affirmative disclosure requirements obliging broadcast licensees to disclose and make available to candidates all discount privileges available to commercial advertisers, including the lowest unit charge for the different classes of time sold. Section 73.1942 requires broadcast licensees to disclose any station practices offered to commercial advertisers that enhance the value of advertising spots and different classes of time (immediately preemptible, preemptible with notice, fixed, fire sale, and make good). It also requires licensees to calculate the lowest unit charge. The disclosures would assure candidates that they are receiving the same lowest unit charge as other advertisers.

OMB Number: 3060-0211.

Title: Section 73.1943, Political file.

Action: Revision.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: Recordkeeping requirement.

Estimated Annual Burden: 13,880 recordkeepers; 6.25 hours average burden per recordkeeper; 86,750 hours total annual burden.

Needs and Uses: On 2/12/91, the Commission adopted a Report and Order, MM Docket No. 91-168, Codification of the Commission's Political Programming Policies. This R&O revised and clarified the interpretation and application of the political broadcasting rules. In so doing, § 73.1943 now contains the recordkeeping requirements of the political file that were previously covered under 47 CFR 73.1940(d). Section 73.1943 requires licensees of broadcast stations to keep and permit public inspection of a complete record (political file) of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such request. The data is used by the public to assess money expended and time allotted to a political candidate and to ensure that equal access was afforded to other qualified candidates.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-10130 Filed 4-29-92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Anti-Arson Program

AGENCY: U.S. Fire Administration, FEMA.

ACTION: Notice of Solicitation.

SUMMARY: Notice of Solicitation is hereby given that the Federal Emergency Management Agency, under the Fire Prevention and Control Act of 1974, will issue a Request for Assistance (RFA) on or about May 5, 1992, regarding the design and implementation of an anti-arson strategy program. This program is limited to Community-Based Organizations (CBO). This notice informs the public of the availability of \$260,000.00 appropriated for this program by FEMA.

DATES: Comments on this Notice of Solicitation must be submitted on or before June 29, 1992.

ADDRESSES: Applications for assistance must be requested in writing to the following address: Stephen Elias, Contract Specialist, Federal Emergency Management Agency, Office of Acquisition Management, 500 C Street, SW., room 731, Washington, DC 20742.

Ask for Request for Assistance No. EMW-92-S-3919. Please include a self-addressed mailing label with your request.

FOR FURTHER INFORMATION CONTACT: Stephen Elias, Contract Specialist, (202) 646-3734.

SUPPLEMENTARY INFORMATION: The purpose of this assistance is to focus on nationwide efforts to reduce the number of arson-related fires that occur every year throughout the country.

(a) Some broad objectives of this program are:

(1) To encourage neighborhood involvement in reducing arson fires through new and innovative broad spectrum programs;

(2) To expand the neighborhood involvement to a community-wide participation in fighting arson;

(3) To make information available to other neighborhoods and communities regarding successful programs;

(4) To increase the cooperation between neighborhood residents, community groups and public service organizations such as fire, police, building and code departments;

(5) To build a comprehensive community anti-arson program.

(b) Organizations wishing to apply for this program must meet certain eligibility requirements:

(1) The applicant must be a true community-based organization. Among the criteria to be used to determine whether the applicant is a true CBO are the following:

(i) An organization that is made up of community representatives and is located in a neighborhood within the community;

(ii) An organization that is designed to serve members of a neighborhood in dealing with problems on a voluntary basis;

(iii) A non-profit organization capable of leveraging private sector funding;

(iv) Must be a community-based organization that is indigenous to the neighborhood;

(v) An organization must have been in existence for at least one year prior to the issuance of this RFA.

(c) The following evaluation factors (numerically weighted to ensure consistent and balanced scoring) are for consideration by the Anti-Arson Evaluation Panel:

(1) The relationship between the proposed program approach and objectives of FEMA/USFA CBO Programs (Factor Weight: 10);

(2) The experience of the organization relating to previous projects in fire/arson prevention (Factor Weight: 10);

(3) The amount of involvement demonstrated with public sector agencies such as fire, police, building codes, housing, etc. (Factor Weight: 15);

(4) The identification of significant problems and issues that impact on the arson problem in their neighborhood (Factor Weight: 5);

(5) The indication of previous projects in the neighborhood and how residents benefited from those projects in the past (Factor Weight: 5);

(6) Evidence of previous CBO involvement in Anti-Arson Activities and that these activities have continued and some indication of project personnel experience in community problem solving and development (Factor Weight: 15);

(7) Identification, availability and ability to obtain resources, other than federal funding, necessary to implement and maintain the project (Factor Weight: 20);

(8) The commitment of the officers, directors and staff as indicated through regular attendance at organizational meetings, and meetings with public and private officials (Factor Weight: 10);

(9) The reasonableness, practicability and completeness of the organization's plan for implementing and managing the proposed project (Factor Weight: 10).

Cooperative Agreements are anticipated to be awarded as a result of this request for assistance. It is anticipated that a minimum of five (5) and a maximum of twenty-five (25) assistance awards will be made. The minimum anticipated funding level of this program is \$5,000.00 based on the criteria that will be outlined in the solicitation package.

Dated: April 24, 1992.

Robert R. Boyer,

Director, Office of Acquisition Management.

[FR Doc. 92-10125 Filed 4-29-92; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Request for Additional Information

Agreement No.: 203-011369.

Title: Inter-American Discussion Agreement.

Parties: Conference Parties.

Inter-American Freight Conference (FMC No. 202-009648-A) Sections A, B, C and D.

Inter-American Freight Conference

Pacific Coast Area (FMC No. 202-006400) Sections A, B, C and D. Inter-American Freight Conference Puerto Rico and U.S. Virgin Islands Area (FMC No. 202-009968).

Inter-American Freight Conference Area River Plate/Puerto Rico and U.S. Virgin Islands/River Plate (FMC No. 202-010122).

Carrier Parties

A. Bottacchi S.A. de Navegacion C.F.I. e I.

A/S Ivarans Rederi d/b/a Ivaran Lines.

Companhia Maritima Nacional.

Companhia de Navegacao Maritima Netumar.

Empresa de Navegacao Alianca S.A.

Hamburg-Sudamerikanische

Dampfschiffahrts-Gesellschaft

Eggert & Amsinck (Columbus Line).

Nedlloyd Lijnen B.V.

American Transport Lines, Inc.

CMB Transport N.V.

Companhia de Navegacao Lloyd Brasileiro.

Empresa Lineas Maritima Argentinas

Sociedad Anonima (ELMA s/a).

Frota Amazonica S.A.

Maruba S.C.A.

Norsul Internacional S.A.

Transroll/Sea-Land Joint Service (FMC No. 207-011341).

Synopsis: Notice is hereby given that the Federal Maritime Commission pursuant to section 6(d) of the Shipping Act of 1984 (46 U.S.C. app. 1701-1720) has requested additional information from the parties to the agreement in order to complete the statutory review of Agreement No. 203-011369 as required by the Act. This action extends the review period as provided in section 6(c) of the Act.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-10017 Filed 4-29-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

[Docket No. 7100-0042]

Member Bank Requirements; Final Approval of Agency Forms

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of final approval of agency forms.

SUMMARY: Notice is hereby given of final approval of the extension of information collections by the Board of Governors of the Federal Reserve

System (Board) under delegated authority from the Office of Management and Budget (OMB), as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public). The revision, described below, will become effective on June 1, 1992.

The Board of Governors of the Federal Reserve System has approved under delegated authority from OMB an extension for three years, without revision, of the Applications for Subscription to and Cancellation of Federal Reserve Bank Stock (FR 2030a; FR 2086a,b; and FR 2087; OMB No. 7100-0042). The Board also approved under delegated authority a three-year extension, with minor revision, for the Application for Adjustment in Holding of Federal Reserve Bank Stock (FR 2056; OMB No. 7100-0042). The applications, which are required by provisions of the Federal Reserve Act and Regulation I, are submitted to the various Federal Reserve Banks by member commercial banks to request the issuance or cancellation of Federal Reserve Bank stock. The revision to the FR 2056 eliminates the requirement that each adjustment in a member bank's Federal Reserve Bank stock be reported to the member bank's board of directors at its next meeting. Instead, the new form requires the certification by appropriate bank officers of the accuracy of the information submitted to the Board on the form.

DATES: This revision will become effective on June 1, 1992.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452-3829.

SUPPLEMENTARY INFORMATION:

Final Approval Under OMB Delegated Authority of the Extension Without Revision of the Following Reports

Report title: Applications for the Issuance and Cancellation of Federal Reserve Stock—National Bank, Nonmember Bank, Member Bank.

Agency form number: FR 2030, FR 2030a, FR 2086a, FR 2086b, and FR 2087.

OMB Docket number: 7100-0042.

Frequency: On occasion.

Reporters: National, State Member and Nonmember Banks.

Annual reporting hours: 165: 84 (FR 2030), 18 (FR 2030a), 19 (FR 2086a), 13 (FR 2086b), and 31 (FR 2087).

Estimated average hours per response: 0.5 (for each form).

Number of respondents: 328: 167 (FR 2030), 36 (FR 2030a), 37 (FR 2086a), 26 (FR 2086b), and 62 (FR 2087).

Small businesses are affected.

General description of report: These information collections are mandatory (12 U.S.C. 35, 222, 282, 288, and 321) and are not given confidential treatment.

Final Approval Under OMB Delegated Authority of the Extension With Revision of the Following Report

Report title: Application for Adjustment in Holding of Federal Reserve Bank Stock.

Agency form number: FR 2056.

OMB Docket number: 7100-0042.

Frequency: On occasion.

Reporters: National, State Member and Nonmember Banks.

Annual reporting hours: 766.

Estimated average hours per response: 0.5 hour.

Number of respondents: 1,531.

Small businesses are affected.

General Description of report: This information collection is mandatory (12 U.S.C. 287) and is not given confidential treatment.

Abstract: These Federal Reserve Bank stock application forms are required to be submitted to the Federal Reserve System by any national bank, state member bank, or nonmember bank wanting to purchase stock in the Federal Reserve System, increase or decrease its Federal Reserve Bank stock holdings, or cancel such stock. The revision to the FR 2056 eliminates the current requirement that each adjustment in a member bank's Federal Reserve Bank stock be reported to the member bank's board of directors at its next meeting. Instead, the new form requires the certification by appropriate bank officers of the accuracy of the information submitted to the Board on the form.

LEGAL STATUS AND CONFIDENTIALITY:

The provisions of law, cited above, which require these applications relate to the requirement for purchase of stock in Federal Reserve Banks by national banks, adjustments to ownership in Reserve Bank stock to reflect changes in capital and surplus of member banks, proper disposition of Reserve Bank stock when a member bank merges or consolidates with a nonmember bank or when a national bank converts to state nonmember status, and proper disposition of Reserve Bank stock upon the insolvency of a member bank. In each case, the provisions require certain actions, such as the issuance or cancellation of Reserve Bank stock.

REGULATORY FLEXIBILITY ACT ANALYSIS:

The Board certifies that the Federal

Reserve Bank stock applications are not expected to have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

When a bank receives approval for membership in the Federal Reserve System, the bank agrees to certain conditions of membership which are contained in an approval letter sent to the bank by the Federal Reserve Bank in whose district the bank is located. The Reserve Banks provide the applying banks with application forms for the initial subscription of Federal Reserve Bank stock and for any subsequent adjustments to the holdings of such stock. The forms are provided by the Reserve Banks to the applying banks and are prescribed under authority of Regulation I to ensure proper recordation of the number of shares of Federal Reserve Bank stock issued or cancelled in a transaction involving a particular bank. The application forms are used exclusively by the applying banks and the Federal Reserve Banks. The information collected by the forms is not available from any other source.

Board of Governors of the Federal Reserve System, April 24, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-10057 Filed 4-29-92; 8:45 am]

BILLING CODE 6210-01-M

Central Bancshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased

competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 26, 1992.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Central Bancshares, Inc.*, Cambridge, Nebraska; to acquire Emmett Insurance Agency, Arapahoe, Nebraska, and thereby engage in the sale of general insurance including property and casualty insurance and crop hail insurance, pursuant to § 225.25(b)(8)(iii)(A) of the Board's Regulation Y. This activity will be conducted in Arapahoe, Nebraska.

Board of Governors of the Federal Reserve System, April 24, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-10058 Filed 4-30-92; 8:45 am]

BILLING CODE 6210-01-F

Glacier Bancorp., Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such

an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 26, 1992.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Glacier Bancorp., Inc.*, Kalispell, Montana; to become a bank holding company by acquiring 100 percent of the voting shares of Evergreen Bancorporation, Kalispell, Montana, and thereby indirectly acquire First National Bank, Eureka, Montana, and First National Bank, Whitefish, Montana.

In connection with this application, Applicant also proposes to acquire First Federal Savings Bank of Montana, Kalispell, Montana, and thereby engage in owning, controlling, or operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y, and providing securities brokerage services, pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 24, 1992.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 92-10060 Filed 4-29-92; 8:45 am]

BILLING CODE 6210-01-F

Merrill Merchants Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 26, 1992.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Merrill Merchants Bancshares, Inc.*, Bangor, Maine; to become a bank holding company by acquiring 100 percent of the voting shares of Merrill Merchants Bank, Bangor, Maine, a *de novo* bank.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *American Bancshares, Inc.*, Monroe, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of American Commercial Savings Bank, Inc., SSB, Monroe, North Carolina, a *de novo* bank.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Peach State Bankshares, Inc.*, Riverdale, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Peach State Bank, Riverdale, Georgia.

Board of Governors of the Federal Reserve System, April 24, 1992.

Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 92-10059 Filed 4-29-92; 8:45 am]
BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Information Collection under OMB Review

AGENCY: Office of Community Services, Administration for Children and Families, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for approval of a new information collection for the Division of Energy Assistance of the Office of Community Services, of the Administration on Children and Families (ACF).

ADDRESSES: Copies of the information collection request may be obtained from Steve Smith, by calling (202) 401-9235. Written comments and questions regarding the requested approval for information collection should be sent directly to: Kristina Emanuels, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, Room 3002, 725 17th Street, NW., Washington, D.C. 20503, (202) 395-7316.

Information on Document

Title: Low Income Home Energy Assistance Program (LIHEAP) Leveraging Report Form (3 parts)

OMB No.: New Request

Description: The Low Income Home Energy Assistance Program Leveraging Report Form is the grantees' application for leveraging incentive funds. The 1990 LIHEAP reauthorization bill (Pub. L. 101-501) established a leveraging incentive fund which was designed to reward grantees that use their own or other non-Federal resources to expand the effect of the Federal LIHEAP resources.

In order to be considered for the leveraging incentive program, grantees must submit a completed LIHEAP Leveraging Report Form. The information collected on this form will be used by the Office of Community Service (OCS), Division of Energy Assistance (DEA), to evaluate activities

meeting the requirements of the incentive program and to determine the grantee's share and uses of to be made of the leveraging incentive fund.

Annual reporting burden:	
Annual Number of Respondents.....	75
Annual Frequency.....	1
Average Burden Hours Per Response.....	12
Total Burden Hours.....	900
Annual Recordkeeping burden:	
Number of Recordkeepers.....	75
Annual Hours Per Recordkeeper.....	28
Total Recordkeeping Hours.....	2100
Total Annual Burden.....	3000
Dated: April 12, 1992	

Naomi B. Marr,

Director, Office of Information Systems Management.

[FR Doc. 92-10056 Filed 4-29-92; 8:45 am]

BILLING CODE 4130-01-M

Administration on Aging

[Program Announcement No. AOA-92-1]

Fiscal Year 1992 Program Announcement; Availability of Funds and Request for Applications

AGENCY: Administration on Aging, HHS.

ACTION: Announcement of availability of funds and request for applications under the Administration on Aging's Discretionary Funds Program for research, demonstration, training, development, and related capacity-building activities in support of the National Eldercare Campaign for older persons at risk.

SUMMARY: The Administration on Aging (AoA) announces its Fiscal Year 1992 Discretionary Funds Program (DFP) of knowledge building, program innovation and development, information dissemination, training, technical assistance, and related capacity-building efforts. The FY 1992 DFP is focused on reinforcing and broadening the National Eldercare Campaign on behalf of older Americans at risk of losing their independence through the development and support of a community-based strategy of collective action and advocacy. Funding for AoA discretionary grants is authorized by title IV of the Older Americans Act, Public Law 89-73, as amended.

This program announcement consists of three parts. Part I provides background information, discusses the purpose of the AoA Discretionary Funds Program, and documents its statutory funding authority. Part II describes the programmatic priorities under which

AoA is inviting applications to be considered for funding. Part III describes, in detail, the application process and provides guidance on how to prepare and submit an application.

All of the forms necessary to submit an application are published as part of this announcement following part III. No separate application kit is necessary for submitting an application. If you have a copy of this entire announcement, you have all the information and forms required to prepare and submit an application.

Grants will be made under this announcement subject to the availability of funds for the support of these activities.

DATES: The deadline for submission of applications under this announcement is June 30, 1992.

ADDRESSES: Application receipt point: Department of Health and Human Services, Administration on Aging, Office of Administration and Management, 330 Independence Avenue, SW., room 4256, Washington, DC 20201, Attn: AOA-92-1.

FOR FURTHER INFORMATION CONTACT: Department of Health and Human Services, Administration on Aging, Office of Program Development, 330 Independence Avenue, SW., room 4661, Washington, DC 20201, telephone (202) 619-0441.

SUPPLEMENTARY INFORMATION:

Part I Background

A. Eldercare: Challenge for the 1990s and Beyond

Demographic trends underscore the burgeoning numbers and the importance of our older population. By the year 2030, one of every four Americans, over 83 million persons, will be 60 years or older and approximately 8 million of them will be age 85 or older. What has been called the graying of America has captured considerable media attention and given rise to widespread concern over future economic, political, and societal trends, especially when the baby-boom generation reaches age 60+ in the early decades of the 21st century.

It is crucial that we, as a nation, build our capacity to respond to the dramatic increase in our older population today and into the next century. That challenge is heightened by the growing numbers of elderly who are at risk, including those who are physically or mentally impaired; abused, neglected, or exploited; or without a caregiver to assist them when in need. At special risk are those older people who are poor; particularly women, rural Americans, and members of minority

groups. For these older Americans, the term "eldercare" has a special meaning. It defines for our society a caregiving role aimed at helping vulnerable persons to function independently at home and in the community for as long as possible. Eldercare embodies a culture of caring for our families, our parents, our neighbors, and our friends.

B. The National Eldercare Campaign—Current Emphases and Activities

In the past year, under the leadership of the U.S. Commissioner on Aging, Joyce T. Berry, Ph.D., the Administration on Aging has committed its program, staff, and leadership resources to the National Eldercare Campaign—a nationwide, multi-year effort aimed at providing services and opportunities for older persons at risk of losing their self-sufficiency. The National Eldercare Campaign is based on the realization that the needs of our rapidly-growing older population, and the special challenges presented by millions of at-risk elderly, have and will continue to out-strip available public resources. Strong and purposeful coalitions, representing all segments of society with a stake in our nation's future, must be mobilized for action and advocacy at all levels, but especially in our communities.

During its early critical stages, the National Eldercare Campaign has been solidly based on three components:

(1) *Building Public Awareness*—A national public awareness strategy is being directed toward making all segments of society aware of the implications of an aging society and of the growing urgency to respond to the risks faced by the most vulnerable segments of our older population;

(2) *Expanded Organizational Involvement*—Under the second component of the National Eldercare Campaign, AoA is reaching out to and working with traditional aging organizations, as well as non-traditional organizations, representing government, business, the professions, and the voluntary, religious, educational, and other interested communities, to gain their commitment to an Eldercare agenda for serving vulnerable older persons; and

(3) *Community Eldercare Coalition Building*—Project CARE (Community Action to Reach the Elderly) coalitions have been established in almost 300 communities. Their purpose are to organize and focus attention on one primary concern of at-risk older persons and to combine resources as part of a coordinated response to the identified need.

To assist in carrying out these components of the National Eldercare Campaign, the Administration on Aging made a number of awards in FY 1991 to agencies and organizations competing under the National Eldercare Institutes, the Discretionary Funds Program, and other Title IV program announcements. These program activities include the following:

1. *National Associations and Organizations.* In 1991, AoA Central and Regional Office staff began a series of contacts with selected associations and organizations outside the traditional aging network, to gain their commitment and participation in aging issues and the National Eldercare Campaign. As a result, a number of organizations are becoming involved in a substantial and significant way in the eldercare effort. AoA is now working with these organizations toward developing substantive program initiatives and designing strategies for incorporating these initiatives as an integral part of community based services and opportunities.

In a further effort to expand organizational involvement in the National Eldercare Campaign, AoA made awards under its FY 1991 Discretionary Funds Program to:

(a) Seven (7) national aging organizations to stimulate new initiatives for addressing home and community-based care needs of older persons at risk and to expand public awareness relating to the problems and issues of eldercare; and

(b) eleven (11) national associations for promoting awareness among their affiliates and members of the necessity for immediate substantive action in preparing for an aging society and integration of eldercare into their ongoing agendas.

2. *Older Americans Act Eldercare Volunteer Corps.* Volunteers have been the backbone of Older Americans Act service systems dating back to their formative years in the mid 1960's. Through the Eldercare Volunteer Corps Initiative, AoA recognizes the more than one-half million volunteers now serving in Older Americans Act programs. Twenty-eight (28) States received FY 1991 Title IV Discretionary Grant Funds to develop and demonstrate improved methods for recruiting, training, and retaining volunteers as part of a volunteer management program.

3. *Project CARE.* Project CARE was launched in May, 1991 for the development of a multi-year program to promote community action on behalf of the at-risk elderly in danger of losing their independence. Project CARE Coalitions are being established in

nearly 300 communities nationwide to identify a problem of primary importance to the vulnerable elderly and then to develop a community coalition of partners to advocate and develop new and innovative approaches in mobilizing resources to respond to that primary need.

Each State Agency on Aging, through its Area Agencies, will establish at least three Project CARE Eldercare Community Coalitions to expand home and community based services. In addition, under the FY 1991 Discretionary Funds Program Announcement, AoA funded sixteen (16) Area Agencies to develop three Project CARE Coalitions in three different communities within the Planning and Service Area covered by the Area Agency on Aging. Phase II of these latter projects calls for replication of the coalition building in three more communities within the planning and service area.

4. *National Eldercare Institutes.* In September, grant awards were made by AoA to support twelve (12) National Eldercare Institutes, each focused on a substantive issue area critical to the improvement of eldercare services. The Institutes will work with community eldercare coalitions to strengthen the capacity of these coalitions to respond knowledgeably to issues concerning the development and implementation of in-home and community-based eldercare services and opportunities. They will, in addition, provide guidance and expertise to national aging and non-aging organizations, across the public, private, and voluntary sectors, for achieving the objectives of the National Eldercare Campaign. In carrying out these responsibilities, the Institutes will undertake certain core functions: knowledge synthesis and analysis; the dissemination of useful information and materials; and a range of training, consultative, and technical assistance activities.

C. The National Eldercare Campaign—Next Steps

The Administration on Aging is intent not just on sustaining the public awareness, organizational involvement, and coalition building components of the National Eldercare Campaign. The next major step is to bring eldercare programs and services directly to the at-risk elderly through collective action and advocacy. In practical, every-day human terms, action and advocacy must be focused on older Americans who are poor; who live alone; whose independence is threatened by physical or mental impairments, by abuse or exploitation, especially older women,

minority older Americans, and the rural elderly.

Collective action and advocacy must be rooted, first and foremost, in our communities. A key objective of the National Eldercare Campaign is concerted action taken by or on behalf of the elderly aimed at generating lasting change in the system which will provide a future in which each community is a good place to grow old. This effort must be aimed at mobilizing an ever-widening circle of both traditional and non-traditional organizations to join the ranks of advocates for eldercare and at-risk older persons. In particular, these community initiatives must focus on gaining the commitment of (1) local voluntary sector agencies to use their organizational and volunteer resources in service to the at-risk elderly and (2) corporations, foundations, and businesses with a stake in serving vulnerable older persons where they shop and carry out their business transactions (malls, department stores, banks, drug stores, etc).

Collective action and advocacy also means that such organizations of older persons as AAA advisory boards, silver-haired legislatures, union and other retiree groups will be going beyond their ordinary and usual activities to spearhead a range of efforts that recognize and respond to eldercare issues and concerns, issues and concerns primarily local (neighborhood, town, city, county) in nature but whose scope often extends to the entire State.

Collective action and advocacy needs to reflect the culture of caring embodied in the day-to-day experiences of family caregivers as well as practicing professional caregivers. In perhaps the most strategic sense, the call for collective action and advocacy on behalf of eldercare for the at-risk elderly must be answered by women's groups, minority groups, religious organizations, local volunteer and civic associations, consumer groups, all with face-to-face dealings with vulnerable older persons.

In order to carry out successful collective action and advocacy, participating organizations must work with the widest possible range of like-minded collaborating organizations. Such collaboration is especially important at the local level where the influence of any one group may be small but the potential for enlisting allies is great. Community action is also highly "do-able" since the energies of activists can often initiate important action with meager resources, action which, in turn, often has a profound ripple effect. State-level action and advocacy on eldercare

issues, while more complex and multidimensional, should also be given appropriate consideration.

AoA's emphasis on collective action and advocacy seeks to capitalize on and expand a broad public awareness of an aging society in ways that reinforce the objectives of the National Eldercare Campaign and are consistent with the objectives of the aging network and traditional aging organizations which share a long-standing commitment to serve older Americans. Groups representing seniors themselves, advocate groups for minorities, caregivers, and women (especially organizations of active professional women) should rightly be seen as important allies in elevating eldercare issues to a prominent place on the agendas of public and private sector agencies and officials.

D. The AoA Discretionary Funds Program

This Fiscal Year 1992 Discretionary Funds Program (DFP) constitutes an important resource in supporting AoA's commitment to the objectives of the National Eldercare Campaign and in helping to mobilize collective community and appropriate State action and advocacy on behalf of the vulnerable, at-risk elderly. The DFP is the focus of this announcement and is described in detail below.

The Discretionary Funds Program authorized by title IV of the Older Americans Act constitutes the major research, demonstration, training, and development effort of the Administration on Aging. The title IV mandate is aimed, generally, at building knowledge, developing innovative model programs, and training personnel for service in the field of aging, and matching these resources to the changing needs of older persons and their families in the coming decades. AoA's research, demonstrations, training and other discretionary programs and, in particular, its National Eldercare Institutes, are focused on current issues, such as community-based eldercare service systems and programs, significant to the well-being of the older population.

With its dual emphasis on contemporary aging program issues and on preparing for a future aging society, the Title IV Discretionary Funds Program is well suited to support the National Eldercare Campaign. Eldercare for older persons at risk embodies a set of salient policy issues and societal concerns that will carry through the 1990's and well into the 21st century. Underlying these issues and concerns is the recognition by AoA and the

nationwide aging network that we must take action to (1) serve the current generation of older Americans more effectively and (2) develop a long range capacity to respond to the dramatic increases in the older population projected for the coming decades. The AoA Discretionary Funds Program for FY 1992 is directed toward building the resources, in the near and the long term, to better serve older Americans at risk of losing their independence.

E. Coordination With Other Federal Agencies

Under the Older Americans Act, the Administration on Aging functions as a focal point within the Federal government for aging-related concerns. In that capacity, AoA advises the Secretary of Health and Human Services in matters affecting older Americans and provides consultation and information to other Federal agencies on the characteristics, circumstances, and needs of older persons. AoA's national level program and advocacy responsibilities place major emphasis on developing collaborative relationships with other Federal agencies aimed at coordinating diverse and wide-ranging Federal program resources and linking those resources to the similarly diverse needs of older persons. Dating back two decades, AoA has worked hard to develop and implement a network of Federal Interagency Agreements to better serve older Americans, combining our resources with those of the Departments of Transportation, Housing and Urban Development, and Labor; the Social Security Administration, the Health Care Financing Administration, ACTION, the Farmers Home Administration, and the National Institute on Aging.

AoA has also established a Federal Interdepartmental Task Force to better identify issues for policy and program coordination and to develop collaborative interdepartmental approaches in preparation for the changing and growing elderly population. The Task Force is comprised of representatives from the Department of Education, Department of Veterans Affairs, Department of Labor, Department of Housing and Urban Development, Department of Transportation, Department of Agriculture, Department of Justice, the Social Security Administration, Health Care Financing Administration, National Institute on Aging, Administration on Families and Children, Health Resources and Services Administration, and the Food and Drug Administration. The Task Force has established five work groups to address the following areas:

Housing, Employment/Volunteers, Health, In-home and Community-Based Care Services, and Elder Abuse. The work groups have convened meetings to identify and select issues of major concern in the designated subject area, prioritize issues, develop action plans and report recommendations to the Task Force.

These interagency collaborations, along with the National Eldercare Campaign, represent a strategic coupling of AoA's resources to serve the nation's elderly, especially those at risk of losing their independence. AoA's Federal Interagency Agreements cover a spectrum of program efforts—in housing, transportation, health promotion, elder abuse, etc.—that closely parallel a number of the priority areas in this Discretionary Funds Program Announcement. In both subject matter and functional terms, title IV discretionary projects serve to complement and augment the gains achieved through interagency cooperation.

The discretionary projects to be funded under this announcement will also serve as a technical resource in enhancing AoA's ability to play a coordination role in such complex emerging areas as, for example, Federal implementation of the Americans with Disabilities Act (ADA), which will have wide ramifications for housing, transportation, employment, rehabilitative, and other services for the disabled elderly. ADA is expected to be a focus of attention and program coordination during the next several years and several of the projects funded under this DFP could serve as a major resource to AoA in this area.

F. Technical Assistance Workshops for Prospective Applicants

Workshops will be held in Washington, DC and several other cities to provide guidance and technical assistance to prospective applicants. Please call the appropriate AoA contact person for the time and location of the workshop you are interested in attending.

City	AoA Contact Person
Washington, DC	Saadia Greenberg, (202) 619-0441.
Boston, Massachusetts	Thomas Hooker, (617) 565-1168.
New York, New York	Judith Rackmill, (212) 264-2976.
Philadelphia, Pennsylvania	Paul E. Ertel, Jr., (215) 596-6891.
Atlanta, Georgia	Franklin Nicholson, (404) 331-5900.
Chicago, Illinois	Eli Lipschultz, (312) 353-6503.

City	AoA Contact Person
Dallas, Texas.....	John Diaz, (214) 767-2971.
Kansas City, Missouri..	Larry Brewster, (816) 426-2955.
Denver, Colorado.....	Percy Devine, (303) 844-2951.
San Francisco, California.	Howard Williams, (415) 556-6003.
Seattle, Washington.....	Chisato Kawabori, (206) 553-5341.

G. Statutory Authority

The statutory authority for awards made under the AoA Discretionary Funds Program is title IV of the Older Americans Act, as amended (42 U.S.C. 3001 et seq.).

H. Public Comments on this Announcement

AoA invites comments on this Discretionary Funds Program Announcement. Please direct your comments to: Office of Program Development, Administration on Aging, 330 Independence Avenue, SW., Washington, DC 20201.

Part II—Priority Areas

The objectives of AoA's National Eldercare Campaign constitute the basic organizing framework for the FY 1992 Priority Areas included in this Discretionary Funds Program Announcement. This part of the announcement provides general guidelines concerning eligible applicants as well as project costs and duration. More specific instructions regarding eligibility, costs, and duration may be found under the individual priority areas. For the convenience of prospective applicants, a listing of the FY 1992 priority areas is provided. Following the listing, each priority area is described in detail.

Applications are expected to be directly and explicitly responsive to the expressed concerns of the particular priority area under which they are submitted.

A. Eligible Applicants

As a general rule, any public or nonprofit agency, organization, or institution is eligible to apply under this Discretionary Funds Program Announcement. Where there are exceptions to this rule, they are specified in the appropriate priority area description. Applications from individuals cannot be considered because they are ineligible to receive a grant award under the provisions of title IV of the Older Americans Act. For-profit organizations are not eligible applicants, but they may participate as

subgrantees or subcontractors to eligible public or nonprofit agencies.

Any nonprofit organization applying under this program announcement that is not now a DHHS grantee should include, with its application, Internal Revenue Service or other legally recognized documentation of its nonprofit status. A nonprofit applicant cannot be funded without proof of its status.

B. Project Costs and Duration

Under each priority area, AoA has estimated the number of projects to be funded and offered guidelines regarding both the duration of those projects and the anticipated Federal share of project costs. Because applications are reviewed on a competitive basis within priority areas, they are expected to be comparable in terms of cost and duration. Therefore, applicants are strongly urged to adhere to those guidelines.

C. List of Priority Areas

I. National Eldercare Campaign: Collective Action and Advocacy

- 1.1 Operation Care: Local Initiatives of National Associations
- 1.2 Older Americans Act Eldercare Volunteer Corps
- 1.3 Eldercare Volunteer Service Credits Demonstrations Program
- 1.4 Eldercare Initiatives by National Aging Organizations

II. National Eldercare Campaign: Supportive Activities

- 2.1 Targeting Eldercare Program Resources and Services to Low Income Minority Elderly
- 2.2 National Eldercare Legal Assistance Projects
- 2.3 Education and Training of Personnel to Provide Better Eldercare Services to At-Risk Elderly
- 2.4 Minority Management Training Program

Priority Area Descriptions

I. National Eldercare Campaign: Collective Action and Advocacy

1.1 Operation Care*: Local Initiatives of National Associations

Applications are solicited from national associations and organizations, whose predominant focus is not aging, to act in concert with their local affiliates/chapters in developing and implementing Operation Care/ community eldercare initiatives that respond to the needs of the at-risk elderly. The issues now gaining prominence as a result of the graying of

*Operation Care is also the title of an intergenerational program now being conducted by the Girl Scouts of the U.S.A. with support from the Metropolitan Life Foundation.

our population, as well as the challenges raised by the growing numbers of older persons who need assistance in maintaining their independence, are a concern of all segments of our society. Business and trade associations; organized labor; professional organizations; religious and academic institutions; voluntary, charitable, fraternal, and civic associations; and especially women's groups and caregiver organizations can expect that an ever greater portion of their agenda will be dominated by eldercare issues. This priority area, Operation Care: Local Initiatives of National Associations, recognizes the growing commitment of non-traditional national associations to a strong role of advocacy and service to the at-risk elderly.

The applicant national association is expected to propose to initiate and carry out, through local affiliate chapters in community sites across the country, specific plans for concerted, grass-roots action and advocacy that respond directly to problems of primary importance to the at-risk elderly. For each participating site in the proposed project, the application must identify an eldercare issue and document its special importance to the older persons of that community/locality. Such eldercare issues as the following might well be chosen as the focus of community advocacy and action: transportation; in-home care; volunteer service; housing; health promotion and nutrition; better access to benefits and services under SSI, Food Stamps, etc. In some instances, a proposed community site may now be the locus of efforts to organize Project CARE Coalitions as part of the National Eldercare Campaign (as described in Part I of this program announcement). In these cases, the applicant must make clear how its project activities will be coordinated with the efforts being undertaken in that community by the Project CARE Eldercare Coalition.

The applicant national association must describe in detail the lead role of its local affiliates in developing and implementing the plan of action and show how they will be collaborating with identified local public, private, and voluntary sector agencies. The application must also clearly indicate how the project is intended to serve as a model to others, with particular reference to the plans of the applicant national association for replicating the model among its membership. In addition, the applicant must indicate its plans for seeking additional sources of support (foundation, corporate, philanthropic, etc.) to continue project

activities after the demonstration period is completed and outline the public information and dissemination activities the national association will conduct both among its members and to even wider national audiences.

Among the tangible, concrete outcomes expected from these Operation Care projects are the following:

- Solid evidence that the model community-level advocacy and action projects have had multiplier and rippling effects as demonstrated by the national association's efforts to involve other local affiliates/chapters in replicating the projects in other communities, and by the association's commitment of national-level leadership and resources to the Eldercare Campaign on behalf of the at-risk elderly;

- Demonstrated success of the local affiliates/chapters in mobilizing support for its community eldercare initiative among key local agencies and organizations, particularly other non-traditional private and voluntary sector groups;

- More effective targeting of community resources to the at-risk elderly combined with a greater confidence among vulnerable older persons involved in the project that they are important participants in community decision-making.

AoA expects to make up to eight (8) awards under this priority area with a Federal share of approximately \$100,000 for a project period of approximately 17 months. Please note that national non-aging organizations which were awarded a grant from the Administration on Aging in Fiscal Year 1991 under priority area 1, Building Public Awareness About Eldercare, are not eligible for funding under this priority area.

1.2 Older Americans Act Eldercare Volunteer Corps

In April 1991, the Administration on Aging established the Older Americans Act Eldercare Volunteer Corps. The Corps is organized (1) to recognize the nearly 500,000 volunteers currently contributing their skills and talents to Older Americans Act programs; (2) to encourage the expansion of volunteer efforts by heightening public awareness of the many volunteer opportunities available; and (3) to assist the aging network of State and Area Agencies on Aging and service providers to promote, support, and expand volunteer participation in aging service programs. The Eldercare Volunteer Corps also offers an opportunity for Americans of all ages to enlist in the National Eldercare Campaign and to dedicate a

portion of their time and effort to improving the lives of older persons, especially those vulnerable elderly at risk of losing their independence.

Twenty-eight (28) State Agencies on Aging received FY 1991 title IV Discretionary Grant Funds to develop and demonstrate improved methods for recruiting, training, and retaining volunteers as part of an effort to support and build upon the Elder Volunteer Corps initiative. These projects are focused at a state-wide level on expanding partnerships between the aging network and other key organizations and individuals with experience and expertise in volunteer programs. The purpose of this priority area is to extend the current Older Volunteer Corps effort, the volunteer resources and commitments needed under the Older Americans Act and the National Eldercare Campaign, to still other States and communities besides those which are now participating in the Eldercare Volunteer Corps grants program.

In order to achieve the expansion of the Eldercare Volunteer Corps, it is critical that there be an adequate infrastructure of support from the public, voluntary, and private sectors at State and community levels. This priority area is aimed at establishing, throughout the State, that requisite solid foundation of support for volunteer service to older persons. Applicant State Agencies on Aging are expected to bring together key actors (a) to examine current volunteer program activities, (b) to prioritize future volunteer efforts and develop an action plan to more effectively recruit, retain, train, and supervise volunteers in Older Americans Act Programs, and (c) to begin in concert to implement such a plan. For these purposes, the application should specify the establishment of a steering committee comprised of representatives from such entities as ACTION agencies, the Red Cross, United Way, the local Chamber of Commerce, AARP, the Governor's Office on Volunteerism, and other organizations with comparable expertise and experience.

Development of Action Plans

The applicant's proposed plan of action should include, but not be limited to, the following elements:

- (1) Recruitment resources (e.g., churches, civic groups, other volunteer networks) and appropriate recruitment approaches;
- (2) Required training materials (e.g., guides, manuals); and
- (3) Means of ensuring that volunteers are matched with the appropriate volunteer opportunities.

(4) Support structure (volunteer coordinator, program staff required to train and supervise volunteers);

(5) Need for additional volunteers in such areas as ombudsman or home-delivered meals.

Special attention in the action plan should be given to:

- Recruitment of minority volunteers, and
- Increasing volunteers for home and community-based services.

Implementation of Action Plans

State Agencies on Aging are expected to collaborate closely with Area Agencies on Aging on implementation of the action plan and jointly decide whether to focus efforts, initially, at the State, Area agency, or service provider level. A range of options may be considered, for example: planning and conducting train the trainer courses at the State level; conducting a pilot program at the Area Agency level; or a demonstration project administered by service provider agencies.

Implementation of the action plan shall be initiated not later than six months after award and shall be assisted by the National Eldercare Institute on Employment and Volunteerism.

Only State Agencies on Aging not now being funded under the Eldercare Volunteer Corps title IV grant program are eligible to apply under this priority area. It is anticipated that up to seventeen (17) awards will be made under this priority area at a Federal share of approximately \$30,000 each for a project period of approximately 17 months.

1.3 Eldercare Volunteer Service Credit Demonstrations

Under this priority area, the Administration on Aging is soliciting applications to test new models and replicate existing models of the volunteer service credits concept. Applicants are encouraged to propose use of volunteer service credits in a manner consistent with the objectives of the National Eldercare Campaign. A primary focus should be on supportive services that help at-risk elders to continue to live in their homes, e.g. shopping, transportation, telephone reassurance and friendly visiting, light housekeeping, and respite care. Preference will be given to model projects which significantly involve low-income, minority, and rural elderly. In addition, as further described below, applications are also sought for a project to provide training, technical assistance, and capacity-building services to these new model demonstration projects and,

whenever feasible, to Eldercare Coalitions interested in initiating volunteer service credit programs. This project is also expected to recruit and train college graduates as interns to develop volunteer service credit programs in minority communities.

The basic service credit concept is to give volunteers a credit unit for each service hour performed, regardless of the type of service, in the expectation that accrued credits will be redeemed in services by the volunteer at some future time of need. A centralized accounting system must be maintained to keep track of credits and match up volunteers with recipients. As a practical matter, limitations on the number and type of services offered are necessary as are rules that govern accumulation and use of credits. After initial start-up and operation, a steady and continuing source of core financial assistance is needed (1) to administer the system, (2) to guarantee redemption of built-up credits in those cases when the type of immediate service need cannot be met by the volunteer services then available, and (3) to off-set credit deficits incurred when recipients, because of illness or other circumstances, cannot repay the services provided to them with volunteer effort.

The service credit concept has been most recently demonstrated by the Robert Wood Johnson Foundation with technical assistance provided by the Center on Aging at the University of Maryland. The six (6) three-year demonstrations which are located in various settings—two hospitals, a nursing home, a community service center, a senior center and a health maintenance organization—have been of two types: (1) Programs which limit volunteers and service redemption to a single service agency or organization (known as an association model); and (2) programs which are community-wide and form a coordinating coalition to administer exchange of service credits. Information regarding these demonstrations may be obtained by contacting: The National Eldercare Institute on Volunteerism and Employment, Center on Aging, University of Maryland, College Park, Maryland, 20742-2611 tel. 301-405-2469 FAX (301) 314-9167.

The purpose of this priority area is to test the feasibility of the service credit concept in new areas and to replicate existing models in new sites. Among the possible new areas for testing the feasibility of using service credits are (1) corporate and union retirement benefit programs and (2) programs under the sponsorship of fraternal organizations.

Among the service credit models appropriate for replication in similar settings are (1) social and health maintenance insurance programs where volunteer services are credited with partial payment in lieu of fees and premiums under newly-designed community long term care service packages; (2) church-based service programs to be based in communities serving low-income minority elderly and (3) programs in residential retirement communities.

Applicants are encouraged to solicit co-sponsoring community organizations, including youth groups to donate volunteer services to individuals who cannot become full participants of the service credit program or to compensate older volunteers with services not provided by participants in the service credit program. Projects using co-sponsoring organization must incorporate this support in a manner that does not detract from the central feature of the service credit concept of having older persons earn volunteer credits in exchange for future service. Accordingly, enrollment of volunteers eligible to be full participants in the program should be limited to persons age 55 and over (spouses excepted).

AoA intends to make two types of awards under this priority area:

1.3.1 AoA plans to fund approximately three (3) model volunteer service credit projects at a Federal share of approximately \$50,000 per year for a period of up to two years. Model projects funded under this priority area will be provided guidance, technical assistance, and training in the planning, development, and operation of their projects. Assistance will be provided through both regularly scheduled teleconferences and on-site visits. Project directors will be required to attend a cluster meeting in Washington, D.C. during each project year.

1.3.2 AoA plans to award a project grant under this priority area which will provide technical assistance, training, and capacity-building services to the new model demonstration projects and, whenever feasible, to Eldercare Coalitions interested in initiating volunteer service credit programs. Applicants for the training, technical assistance, and capacity-building grant must demonstrate their experience in performing these functions with senior volunteer programs. Applicants must indicate familiarity with service credit demonstrations in designing a detailed plan for assisting an average of three (3) model projects, including a minimum of one (1) site visit per model project and a minimum of two (2) teleconferences with

project directors each funding period. The successful applicant for this project will schedule one (1) two-day cluster meetings with model project directors within the first two months of each budget period for orientation, information sharing, training, and discussion of documentation and reporting. The winning applicant will be required to prepare an interim and final report which describes the progress, status, and accomplishments of the model projects in introducing and sustaining the service credit concept.

This project will be expected to utilize minority interns who are college graduates in carrying out its functions. It will be expected to recruit and train such minority interns and to provide them with a paid internship which will focus on building their experience and skills in developing volunteer service credit programs in minority communities.

It is anticipated that the funding support for this capacity building, training, technical assistance, and internship project will be approximately \$75,000 per year for an estimated two year project period.

AoA has discussed the objectives of this priority area with interested foundations. Our intention is to work with one or more foundations in the review, selection, and funding of Eldercare Volunteer Service Credit projects.

1.4 Eldercare Initiatives by National Aging Organizations

The purpose of this priority area is to involve national aging organizations significantly in the National Eldercare Campaign with an emphasis on new initiatives to (1) address the home and community-based care needs of older persons at risk and (2) expand public awareness relevant to the problems and issues concerning eldercare.

Applications are being solicited from national aging organizations that focus advocacy efforts on issues related to eldercare needs of the at-risk population being targeted by the National Eldercare Campaign. Applicants must propose to accomplish activities in such areas as the following:

- (1) Initiate or expand the process of networking with other organizations such as religious institutions, academia, business, labor, fraternal, civic and professional organizations and associations;
- (2) Implement public awareness campaigns that include the use of media, and
- (3) Work with eldercare coalitions and State and Area Agencies on Aging

to multiply the effects of the advocacy efforts being made by the applicant on behalf of the at-risk population.

Applicants are required to (1) document their familiarity with all aspects of the National Eldercare Campaign, (2) describe current organizational activities that are related to the objectives of the Campaign, and (3) describe how proposed activities represent a significant commitment on the part of the organization to undertaking an eldercare agenda on behalf of older persons at risk of losing their independence.

Eligibility to apply for funds under this priority area is limited to national aging organizations. AoA intends to support up to eight (8) projects at a Federal share of approximately \$100,000 per project for a period of approximately 17 months. The applicant must, at a minimum, match the Federal share of project costs. Thus this priority area requires a grantee share of at least 50% of total project costs. Please note that in making awards under this priority area, the Commissioner on Aging will give preference to national aging organizations which were not awarded a grant from the Administration on Aging in Fiscal Year 1991 under priority area 4, Greater Advocacy by National Aging Organizations for Older Persons At-Risk.

II. National Eldercare Campaign: Supportive Activities and New Initiatives

2.1 Targeting Eldercare Program Resources and Services to Low-Income Minority Elderly

The Older Americans Act assigns a high priority to the development and provision of services to those older individuals who are in greatest economic or social need, with particular attention to low-income minority older persons. The Administration on Aging has underscored that mandate of the Act through its National Eldercare Campaign which is aimed at reaching and serving low-income minority older persons as well as other vulnerable groups who are among the millions of elderly at risk of losing their independence.

The issue of access by low-income minority elderly to needed benefits and eldercare services continues to be of concern to the Administration on Aging (AoA). Low-income minority elderly still face a number of barriers in accessing Older Americans Act programs, entitlement programs such as Supplementary Security Income (SSI), Qualified Medicare Beneficiary Benefits, Medicaid, Food Stamps, and other

community-based programs. The Social Security Administration (SSA), the Health Care Financing Administration (HCFA), and AoA are responding to this need by coordinating their program activities so that the needs and concerns of at-risk older persons, and especially low-income minority elderly, are addressed.

But efforts by these government agencies are only part of the solution. To directly bring eldercare programs and services to the low-income minority elderly, collective action and advocacy must be taken at both the national and the local level. In this priority area, applicants should demonstrate how the proposed projects will fit into a comprehensive strategies for improving access to services by low-income minority elderly and how these projects will have a continuing, significant impact on the problems being addressed.

Applicants should discuss in detail: (1) The steps they will take at both the national and the local level to improve the targeting of services to low-income minority elderly; (2) proposed outreach methods; (3) and strategies aimed at making program benefits and services more accessible, and responsible program agencies and officials more responsive, to at-risk minority elderly. The application must also clearly indicate how the project activities will be continued after the demonstration period is completed.

Eligibility to apply under this priority area is restricted to national minority aging organizations which provide special representation and outreach services for the minority elderly. Successful applicants will be expected to coordinate their activities, where appropriate, with eldercare coalitions at the State and community level. AoA expects to fund up to five (5) demonstration projects under this priority area with an approximate Federal share of \$200,000 per year and an estimated project duration of two years.

2.2 National Eldercare Legal Assistance Projects

As mandated by the Older Americans Act, the Administration on Aging (AoA) will make discretionary project awards aimed at building a national system of legal assistance activities in support of the National Eldercare Campaign, with special emphasis on enhancing the capability of State and Area Agencies on Aging and legal services providers to plan for and deliver legal assistance to those vulnerable elderly at risk of losing their independence.

The quality and accessibility of legal services to older persons is a crucial issue with particular implications for those undertaking advocacy and action on behalf of the frailest and most vulnerable of our older population. The crucial and urgent concerns facing the at-risk elderly often involve a determination of their substantive and procedural rights under government benefit programs (SSI, Medicare, Medicaid, VA, etc.). Older persons and their families may also encounter circumstances in which such matters as guardianship, pensions, long term care, health care decision making, durable power of attorney, housing, and consumer protection become paramount in importance. Under this priority area, AoA will direct its title IV legal assistance grant resources toward reaching, representing, and serving these at-risk elderly.

Section 424 of the Older Americans Act specifies four component activities of a national legal assistance support system. Each activity is a valuable resource in developing systems of legal assistance for older people and improving the quality and accessibility of such services as part of the overall system of services for older people. AoA expects that the project(s) funded under this priority area will, either singularly or collectively, encompass at least these four components:

- (1) Case consultations,
- (2) Training,
- (3) Provision of substantive legal advice and assistance, and
- (4) Assistance in the design, implementation, and administration of legal assistance delivery systems to local providers of legal assistance for older individuals.

As prescribed by section 424 (c) of the Older Americans Act, eligibility is limited to national, nonprofit legal assistance organizations experienced in providing support, on a nationwide basis, to legal assistance programs. AoA expects to fund approximately eight (8) projects under this priority area. The Federal share of project costs is expected to range from about \$75,000 to \$200,000 per year depending upon the scope of the component parts of the national legal assistance support system proposed by an approved applicant. Projects may not exceed 36 months.

2.3 Education and Training of Personnel to Provide Better Eldercare Services to At-Risk Elderly

A major element of the Administration on Aging (AoA) mission is to address the critical shortages of

personnel to provide eldercare services for the elderly. There is a need to attract a greater number of qualified personnel into the field of aging and to develop more highly skilled persons to improve the quality of care provided to the elderly.

AoA encourages academic institutions to become more involved in gaining greater public awareness about societal changes needed for addressing the greater demands for home and community based care for the elderly. Academic institutions need to become more actively involved in creating greater public awareness about the expanding aging population; in stimulating greater understanding within all academic disciplines regarding the role they can play in addressing the growing need for eldercare; and in expanding efforts to educate the public about the need for more and better eldercare services.

The Administration on Aging (AoA) has long recognized the critical need for faculty and program development in the field of aging in institutions of higher learning. This year AoA intends to address this need by encouraging institutions to incorporate the concepts of the National Eldercare Campaign into the curricula of appropriate disciplines and professions. As described above, the National Eldercare Campaign is mobilizing new and existing resources for home and community-based care for at-risk older persons.

Institutions of higher learning are in a position to greatly benefit the elderly now and in the future. They have at their disposal information, know-how, manpower and other resources, that, when applied to the problems facing the elderly could greatly retard the loss of independence in the at-risk older population, including those who are physically or mentally impaired, and often without a caregiver; those vulnerable to abuse, neglect, or exploitation; and those at special risk—older women, rural Americans, and members of minority groups.

Manpower studies highlight the need for faculty with expertise in aging in all health and human services professional schools. Highly trained faculty members are needed to help students understand the aging process, gain sensitivity about the needs and values of older persons, and most importantly, to discover ways for our society to meet the challenges of an aging society. Faculty must assume leadership roles in inspiring students to work effectively with older persons. AoA is relying upon the formal preparation, research interests, and departmental orientation of new and tenured faculty to influence the course

offerings of academic institutions. AoA endeavors to develop an experienced cadre of faculty who are adequately prepared in geriatrics and gerontology to provide leadership essential to increase the number of graduates who are prepared for employment in fields of aging.

AoA solicits applications from institutions of higher education and education based organizations for projects to conduct program development efforts to establish and/or upgrade gerontological training programs by including the concepts of the National Eldercare Campaign in their programs. The institution should address Eldercare concerns by focusing on such activities as:

- (1) Incorporation of a community organization approach with an eldercare agenda into the teaching and internship programs of the institution. Curriculum content should focus on the home and community-based service needs of older persons at risk.

- (2) New approaches to involve faculty in community level coalition building as an effective approach to enhancing home and community-based services for older persons at risk.

Programs may use a variety of approaches including formal programs for faculty, curriculum replication where one institution works with three to five other institutions which are interested in developing programs, a team approach in working together, or a mentoring approach. In addition, we encourage programs which provide opportunities for faculty to undertake special assignments in developing community eldercare coalitions and initiatives.

Projects funded under this priority area may include faculty and student stipends as necessary to promote the development of their programs, especially those at minority institutions. All stipends are expected to be set at a level commensurate with the experience and qualifications of the individual supported.

Applications should include the following:

- (1) Written assurances from each of the organizations and institutions involved in the collaborative effort regarding the types of activities planned and how they will be carried out; and

- (2) Written commitment and plans from faculty participants and an appropriate official from the institutions to develop and/or enhance the curriculum within one year of program completion.

Projects funded under this priority area may also propose to plan and conduct technical assistance and training activities which increase

awareness and knowledge of mental health needs and encourage outreach activities which reach individuals in need, especially those in rural areas. Special attention should be given to the development and implementation of a technical assistance and training strategy which uses mental health and aging professions to teach service providers and State and community Eldercare coalition leaders who serve low income and minority elderly in rural areas.

AoA intends to fund up to eight (8) projects under this priority area with a Federal share approximating \$75,000 per project for a duration of approximately 17 months. Applicants are encouraged to develop close linkages with State and Area Agencies on Aging as well as community level coalitions formed under the National Eldercare Campaign and other relevant community organizations in the development of the application and the implementation of the project.

2.4 Minority Management Training Program

AoA is interested in funding special training projects to increase the number of qualified minorities in key management/administrative positions in State and Area Agencies on Aging and other agencies and organizations which impact on those older persons who are at-risk of losing their independence. Applications are solicited from State Agencies on Aging, Area Agencies on Aging where the proposal has the endorsement of the appropriate State Agency on Aging, educational institutions, Indian Tribal Organizations funded under title VI of the Older Americans Act, and other appropriate aging related organizations to participate in the Minority Management Training Program. The objective of this program is to increase the professional credentials of minority trainees to help these individuals make the transition from a staff level position to a managerial/administrative position.

The program is designed to assist highly motivated minority professionals, preferably with advanced degrees or persons with a bachelor's degree and several years of significant prior aging program experience, to work in settings where they can serve as trainees in a managerial or administrative position. It is hoped that training experience will result in either the permanent placement of the individual as a manager, supervisor or administrator in the host organization providing the training experience, or will equip participants in the program to be hired in comparable

positions by other agencies or institutions upon completion of the training experience. Trainee selection should be based upon a strong commitment to work in the field of aging.

Applicants should seek commitments from host agencies which are willing to provide a varied work experience with ample opportunity for the trainee(s) to assume a managerial role. Placement in State and Area Agencies on Aging is strongly encouraged. Trainees should be given on-the-job instruction, support, counseling, and feedback about work performance. The grantee organization under this priority area must be in a position to provide administrative support to trainees and host institutions, on site monitoring of the work experience on a periodic basis and assistance in the placement of trainees once the training experience is completed.

Applications should contain information about the host agencies, procedures for selecting and recruiting trainees, a description of the traineeship itself and information about training and supervision associated with the traineeship. Applicants must include (1) a plan for assuring placement of trainees in a management or administrative position in an organization which serves older persons upon completion of the training program and (2) an evaluation component for tracking the progress of the trainees' advancement to management positions and in carrying out their managerial responsibilities. Stipends provided under this priority area are expected to be commensurate with the cost of living in a particular geographic area and the qualifications and experience of a particular trainee. Applicants should endeavor to obtain other financial support for the trainee program. Host agency cost sharing is strongly encouraged.

AoA expects to fund up to four projects under this priority area with a Federal share of approximately \$125,000 per project, and an estimated project duration of approximately 17 months.

Part III. Information and Guidelines for the Application Process and Review

This part contains general information for potential applicants and basic guidelines for submitting applications in response to this announcement. Application forms are provided along with detailed instructions for developing and assembling the application package for submittal. General guidelines on applicant eligibility are provided in Part I. Specific eligibility guidelines are provided in Part II under certain priority areas.

A. General Information

1. Review Process and Considerations for Funding

Within the limits of available Federal funds, the Administration on Aging (AoA) makes financial assistance awards consistent with the purposes of the statutory authorities governing the AoA Discretionary Funds Program and this announcement. The following steps are involved in the review process.

a. *Notification:* All applicants will automatically be notified of the receipt of their application and informed of the identification number assigned to it.

b. *Screening:* To insure that minimum standards of equity and fairness have been met, applications which do not meet the screening criteria listed in Section D below, will not be reviewed and will receive no further consideration for funding.

c. *Expert Review:* Applications that conform to the requirements of this program announcement will be reviewed and scored competitively against the evaluation criteria specified in section F, below, by review panels consisting of qualified persons from outside the Federal government and knowledgeable non-AoA Federal Government officials. The scores and judgments of these expert reviewers are a major factor in making award decisions.

d. *Other Comments:* AoA solicits comments from other Federal Departments, State Agencies on Aging, interested foundations, national organizations, experts, and others which are considered by the Commissioner on Aging in making funding decisions.

e. *Other Considerations:* In making funding award decisions, AoA will pay particular attention to applications which focus on older persons with the greatest economic and social need, with particular attention to the low-income minority elderly. Final decisions will also reflect the equitable distribution of assistance among geographical areas of the nation, and rural and urban areas. The Commissioner on Aging also guards against wasteful duplication of effort in making funding decisions.

f. *Other Funding Sources:* AoA reserves the option of discussing applications with, or referring them to, other Federal or non-Federal funding sources when this is determined to be in the best interest of the Federal government or the applicant.

g. *Decision-Making Process:* After the panel review sessions, applicants may be contacted by AoA staff to furnish additional information. Applicants who are contacted should not assume that funding is guaranteed. An award is

official only upon receipt of the Financial Assistance Award (Form DGCM 3-785).

h. *Timeframe:* Applicants should be aware that the time interval between the deadline for submission of applications and the award of a grant may be several months in duration. This length of time is required to review and process grant applications.

2. Notification Under Executive Order 12372

This is not a covered program under Executive Order 12372.

B. Deadline for Submission of Applications

The closing date for submission of applications is June 30, 1992.

Applications must be either sent or hand-delivered to the address specified in section D, below. Hand-delivered applications are accepted during the normal working hours of 9 a.m. to 5:30 p.m., Eastern Time, Monday through Friday. An application will meet the deadline if it is either:

1. Received at the mailing address on or before the deadline date; or
2. Sent before midnight of the deadline date as evidenced by either (1) a U.S. Postal Service receipt or postmark or (2) a receipt from a commercial carrier. The application must also be received in time to be considered under the competitive independent review mandated by chapter 1-62 of the DHHS Grants Administration Manual. Applicants are strongly advised to obtain proof that the application was sent by the deadline date. If there is a question as to when an application was sent, applicants will be asked to provide proof that they have met the deadline date. Private metered postmarks are not acceptable as proof of a timely submittal.

Applications which do not meet the above deadline are considered late applications. The Office of Administration and Management will notify each late applicant that its application will not be considered in the current competition.

AoA may extend the deadline for all applicants because of acts of God, such as floods, hurricanes or earthquakes, when there is widespread disruption of the mail or when AoA determines an extension to be in the best interest of the government. However, if AoA does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant(s).

C. Grantee Share of the Project

Under the Discretionary Funds Program, AoA does not make grant awards for the entire project cost. Successful applicants must, at a minimum, contribute one (1) dollar, secured from non-Federal sources, for every three (3) dollars received in Federal funding. The non-Federal share must equal at least 25% of the total project cost. Applicants should note that, among applications of comparable technical merit, the greater the non-Federal share the more favorably the application is likely to be considered.

The one exception to this cost sharing formula is for applications from American Samoa, Guam, the Virgin Islands or the Northern Mariana Islands. Applicants from these territories are covered by section 501(d) of Public Law 95-134, as amended, which requires the Department to waive "any requirement for local matching funds under \$200,000."

The non-Federal share of total project costs for each budget period may be in the form of grantee-incurred direct or indirect costs, third party in-kind contributions, and/or grant related income. Indirect costs may not exceed those allowed under Federal rules established, as appropriate, by OMB Circulars A-21, A-87, and A-122. If the required non-Federal share is not met by a funded project, AoA will disallow any unmatched Federal dollars. A common error is to match 25% of the Federal share rather than 25% of the entire project cost.

D. Application Screening Requirements

All applications will be screened to determine completeness and conformity to the requirements of this announcement. These screening requirements are intended to assure a level playing field for all applicants. Applications which fail to meet one or more of the criteria described below will not be reviewed and will receive no further consideration for funding. Complete, conforming applications will be reviewed and scored competitively.

In order for an application to be reviewed, it must meet the following screening requirements:

1. The application must not exceed forty (40) pages, double-spaced, exclusive of certain required forms and assurances which are listed below. Applications whose typescript is single-spaced or space-and-a-half will be considered only if it is determined the applicant has not thereby gained a competitive advantage.

The following documents are excluded from the 40 page limitation: (1)

Standard Forms (SF) 424, 424A (including up to a four page budget justification) and 424B; (2) the certification forms regarding lobbying; debarment, suspension, and other responsibility matters; and drug-free workplace requirements; (3) proof of non-profit status; and (4) indirect cost agreements. Within the forty (40) page limitation, the following guidelines are suggested:

- Summary description (one page);
- Narrative (approximately twenty-five pages);
- Applicant's capability statement, including an organization chart, and vitae for key project personnel (approximately ten pages) and;
- Letters of commitment and cooperation (approximately four pages).

2. Applications must be either postmarked by midnight, June 30, 1992, or hand-delivered by 5:30 p.m., Eastern Time, on June 30, 1992 to: Department of Health and Human Services, Administration on Aging, Office of Administration and Management, 330 Independence Avenue, SW., room 4256, Washington, D.C. 20201, Attn: AoA-92-1.

3. Applicants must meet any eligibility requirements specific to the priority area under which they are applying.

UNDER NO CIRCUMSTANCES WILL APPLICATIONS THAT DO NOT MEET THESE SCREENING REQUIREMENTS BE ASSIGNED TO REVIEWERS

E. Funding Limitations on Indirect Costs

1. Training projects awards to institutions of higher education and other non-profit institutions are limited to a Federal reimbursement rate for indirect costs of eight (8) percent of the total allowable direct costs or, where a current agreement exists, the organization's negotiated indirect cost rate, whichever is lower. See section J-2, Item 6j, below.

2. For all other applicants, indirect costs generally may be requested only if the applicant has a negotiated indirect cost rate with the Department's Division of Cost Allocation or with another Federal agency. Applicants who do not have a negotiated indirect cost rate may apply for one in accordance with DHHS procedures and in compliance with relevant OMB Circulars.

F. Evaluation Criteria

Applications which pass the screening will be evaluated by an independent review panel of at least three individuals. These reviewers will be primarily experts from outside the Federal government. Based on the

specific programmatic considerations set forth in the individual priority area under which an application has been submitted, the reviewers will comment on and score the applications, focusing their comments and scoring decisions on the criteria below.

1. Objectives and Need for Assistance: 20 Points

a. Does the application pinpoint relevant economic, social, financial, institutional or other problems requiring a solution?

b. Is the need for the proposed project clearly demonstrated and supported by documentation? Are the needs of low income and minority elderly included and discussed?

c. Are the principal and subordinate objectives, functions, and activities of the project clearly stated, justified, innovative (as appropriate), and relevant to the issue/problem area?

d. Does the application include any relevant data based on planning studies in providing a thorough discussion of the current state of knowledge relevant to the proposed project?

2. Expected Results and/or Benefits—Dissemination and Utilization: 30 Points

a. Are the expected project benefits and/or results clearly identified, realistic, and consistent with the objectives of the project? Are important anticipated contributions to policy, practice, theory and/or research clearly indicated? Does the application clearly indicate how the expected results will be of direct and tangible benefit to older people?

b. Does the application provide a realistic and appropriate plan of activities for disseminating at propitious times the results, findings, and products of the project. Does the application describe how its products will be disseminated to well-chosen audiences as well as what uses those audiences are likely to make of the project's findings, results, and products?

3. Approach: 30 Points

a. Does the application provide a sound and workable plan of action pertaining to the scope of the project and detail how the proposed work will be accomplished?

b. Are persuasive reasons offered for taking the proposed approach as opposed to others? Does the application clearly explain the methodology for determining if the results and benefits identified are being achieved?

c. Does the proposed work/task schedule offer a logical and realistic projection of accomplishments to be

achieved? Is a time-line chart or its equivalent employed to list project activities in chronological order and show the target dates for the projected accomplishments?

d. Has the application clearly identified the kinds of data to be collected and analyzed, and discussed the criteria to be used in evaluating the success of the project?

e. Has the application identified and secured the commitment of each of the key cooperating organizations, groups, and individuals who will work on the project and provided an adequate description of the nature of their effort or contribution?

4. Level of Effort: 20 Points

a. Are the project management, staff resources and time commitments adequate to carry out the proposal effectively and efficiently? Is the staff chart consistent with the project plan expressed in the Approach section of the Program Narrative?

b. Are the key staff well qualified for this project? Are consultants and advisors used appropriately? If volunteers will be used, is there adequate supervision and support from project staff?

c. Does the budget justification adequately describe the resources necessary to conduct the project? Is the budget reasonable in terms of the intended results?

d. Are the authors of the proposal, their relationship with the applicant agency and their intended role in the project, if any, identified?

G. The Components of an Application

To expedite the processing of applications, we request that you arrange the components of your application, the original and two copies, in the following order:

- SF 424, Application for Federal Assistance; SF 424A, Budget, accompanied by your budget justification; SF 424B (Assurances); and the certification forms regarding lobbying; debarment, suspension, and other responsibility matters; and drug-free workplace requirements. **NOTE:** The original copy of the application must have an original signature in item 18d on the SF 424.

- Proof of nonprofit status, as necessary;
- A copy of the applicant's indirect cost agreement, as necessary;
- Project summary description;
- Program narrative;
- Organizational capability statement and vitae;
- Letters of Commitment and Cooperation;

- A copy of the Check List of Application Requirements (see Section K, below) with all the completed items checked.

The original and each copy should be stapled securely (front and back if necessary) in the upper left corner. Pages should be numbered sequentially. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials such as agency promotion brochures, slides, tapes, film clips, etc. It is not feasible to use such items in the review process, and they will be discarded if included.

H. Communications with AoA

Do not include a self-addressed, stamped acknowledgment card. All applicants will automatically be notified of the receipt of their application and informed of the identification number assigned to it. This number and the priority area should be referred to in all subsequent communication with AoA concerning the application. If acknowledgment is not received within seven weeks after the deadline date, please notify the Office of Program Development by telephone at (202) 619-0441.

After an identification number is assigned and the applicant has been notified of the number, applications are filed numerically by identification number for quick retrieval. It will not be possible for AoA staff to provide a timely response to inquiries about a specific application unless the identification number and the priority area are given.

Applicants are advised that, prior to reaching a decision, AoA will not release information relative to an application other than that it has been received and that it is being reviewed. Unnecessary inquiries delay the process. Once a decision is reached, the applicant will be notified as soon as possible of the acceptance or rejection of the application.

I. Background Information and Guidance for Preparing the Application

1. Current Projects and Previous Project Results

In the Program Narrative of the application (see Section J-6 below), applicants are expected to demonstrate familiarity with recent and ongoing activity related to their project proposal. With respect to AoA-supported discretionary grant projects, information on Current AoA Projects may be obtained by contacting the Office of Program Development at 202/619-0441. Regarding Completed AoA Projects, copies of all AoA discretionary grant

final reports and printed materials are sent to: The National Technical Information Service (NTIS), an abstract clearinghouse and document source for Federally sponsored reports; AgeLine, a bibliographic database service sponsored by the AARP; and the U.S. Government Printing Office Library Program, a catalog and microfiche service for 1400 depository libraries located throughout the United States.

Information concerning access to the bibliographic and document referral services provided by these clearinghouses can be obtained through most public and academic libraries. For direct information use the following addresses and telephone numbers:

National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4600.

AgeLine Database, BRS Customer Services, 1200 Route 7, Latham, NY 12110, (800) 345-4277.

Acquisition Unit, Library Programs Service, U.S. Government Printing Office, North Capital and H Streets, NW., Washington, DC 20401, (202) 275-1070.

2. Dissemination and Utilization

The purposes and expectations associated with title IV discretionary projects extend well beyond the immediate confines of a particular project's local impact. Projects should have a ripple effect in the field of aging in terms of replicating their design, utilizing their results, and applying their benefits to a widening circle of older persons. This section suggests certain principles of dissemination to be considered in developing your application:

- The most useful projects make dissemination and utilization a central, not peripheral, component of the project;
- Dissemination starts at the beginning of a project not when it is completed;
- Potential users should be involved in planning the project, if possible, and products developed with the needs of potential users in mind;
- Dissemination is a networking process;
- At a minimum, dissemination includes getting your final products into the hands of appropriate users and making presentations at conferences; and
- Coordination with other related projects may increase the chances of your products being used.

J. Completing the Application

In completing the application, please recognize that the set of standardized forms and instructions is prescribed by the Office of Management and Budget

(approved under OMB control number 0348-0043) and is not perfectly adaptable to the particulars of AoA's Discretionary Funds Program. First-time applicants, in particular, may have some misgivings that they have not crossed the final t or dotted the last i of their application. Any applicant should, of course, take reasonable care to avoid technical errors in completing the application, but the substantive merits of the project proposal are the determining factors. In these instructions, we offer several pointers aimed at clarifying matters, overcoming difficulties, and preventing the more common technical mistakes made by applicants. If the need arises, please call (202) 619-0441 for assistance.

Forms SF 424, SF 424A, SF 424B, and the certification forms (regarding lobbying; debarment, suspension, and other responsibility matters; and drug-free workplace requirements) have been reprinted as part of this **Federal Register** announcement for your convenience in preparing the application. Single-sided copies of all required forms must be used for submitting your application. You should reproduce single-sided copies from the reprinted form and type your application on the copies. Please do not use forms directly from the **Federal Register** announcement as they are printed on both sides of the page.

To assist applicants in completing Forms SF 424 and SF 424A correctly, samples of completed forms have been provided as part of this announcement. These samples are to be used as a guide only. Be sure to submit your application on the blank copies. Please prepare your application consistent with the following guidance:

1. SF 424, Cover Page:

Complete only the items specified in the following instructions:

Top Left of Page. In the box provided, enter the number of the priority area under which the application is being submitted.

Item 1. Preprinted on the form.

Item 2. Fill in the date you submitted the application. Leave the applicant identifier box blank.

Item 3. Not applicable.

Item 4. Leave blank.

Item 5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, applicant address, and name and telephone number of the person to contact on matters related to this application.

Item 6. Enter the employer identification number (EIN) of the applicant organization as assigned by the Internal Revenue Service. Please include the suffix to the EIN, if known.

Item 7. Enter the appropriate letter in the box provided.

Item 8. Preprinted on form.

Item 9. Preprinted on form.

Item 10. Preprinted on form.

Item 11. The title should describe concisely the nature of the project. It should not exceed 10 to 12 words and 120 characters including spaces and punctuation. It should not repeat the title of the priority area or the name of the applicant institution.

Item 12. Preprinted on form.

Item 13. Enter the desired start date for the project, beginning on or after August 1, 1992 and the desired end date for the project. Projects are generally 12 to 36 months in duration. Check the description of the priority area under which you are applying for the expected project duration.

Item 14. List the applicant's Congressional District and the District(s), if any, directly affected by the proposed project.

Item 15. All budget information entered under item #15 should cover: (1) The total project period if that period is 17 months or less or (2) the first 12 months if the project period exceeds 17 months. The applicant should show the Federal grant support requested under sub-item 15a. Sub-items 15b-15e are considered cost-sharing or "matching funds". The value of third party in-kind contributions should be entered in sub-items 15c-15e, as applicable. It is important that the dollar amounts entered in sub-items 15b-15e total at least 25 percent of the total project cost (total project cost is equal to the requested Federal funds plus funds from non-Federal sources).

Check: Does all information entered in Items 15a to 15f cover: (1) the total project period if that period is 17 months or less or (2) the first 12 months if the project period exceeds 17 months?

Item 16. Preprinted on form.

Item 17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

Item 18. To be signed by an authorized representative of the applicant organization. A document attesting to that sign-off authority must be on file in the applicant's office.

2. SF 424A—Budget Information:

This form is designed to apply for funding under more than one grant program; thus, for purposes of this AoA program, most of the budget item blocks are superfluous and should be regarded as not applicable. The applicant should consider and respond to only the budget items for which guidance is provided below. Section A—Budget Summary and Section B—Budget Categories should include the Federal as well as non-Federal funding for the proposed project covering (1) the total project period if that period is 17 months or less or (2) the first 12 months if the project period exceeds 17 months.

Section A—Budget Summary

On line 5, enter total Federal Costs in column (e) and total Non-Federal Costs (including third party in-kind contributions but not program income) in column (f). Enter the total of columns (e) and (f) in column (g).

Section B—Budget Categories

Use only the last column under Section B, namely the column headed Total (5), to enter the total requirements for funds (combining

both the Federal and non-Federal shares) by object class category.

A separate budget justification should be included which shows the breakdown of budget cost items by Federal and non-Federal shares and fully explains and justifies each of the major budget items, personnel, travel, other, etc., as outlined below. The budget justification should not exceed four typed pages and should immediately follow SF 424A.

Line 6a—Personnel: Enter total costs of salaries and wages of applicant/grantee staff. Do not include the costs of consultants, which should be included under 6b—Other.

Justification: Identify the principal investigator or project director, if known. Specify the key staff, their titles, and time commitments in the budget justification.

Line 6b—Fringe Benefits: Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a break-down of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, etc.

Line 6c—Travel: Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation.

Justification: Include the total number of trips, destinations, length of stay, transportation costs and subsistence allowances.

Line 6d—Equipment: Enter the total costs of all equipment to be acquired by the project. For State and local governments, including Federally recognized Indian Tribes, "equipment" is non-expendable tangible personal property having a useful life of more than two years and an acquisition cost of \$5,000 or more per unit. For all other grantees, the threshold for equipment is \$500 or more per unit.

Justification: Equipment to be purchased with Federal funds must be justified as necessary for the conduct of the project. The equipment, or a reasonable facsimile, must not be otherwise available to the applicant or its sub-grantees. The justification also must contain plans for the use or disposal of the equipment after the project ends.

Line 6e—Supplies: Enter the total costs of all tangible expendable personal property (supplies) other than those included on line 6d.

Line 6f—Contractual: Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and, (2) contracts with secondary recipient organizations including delegate agencies. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line.

Justification: Attach a list of contractors indicating the name of the organization, the purpose of the contract, and the estimated dollar amount. If the name of the contractor, scope of work, and estimated costs are not available or have not been negotiated, indicate when this information will be available. Whenever the applicant/grantee intends to delegate all or part of the project

work to another agency, the applicant/grantee must provide a completed copy of section B, Budget Categories for each contractor, along with supporting information.

Line 6g—Construction: Leave blank since new construction is not allowable and Federal funds are rarely used for either renovation or repair.

Line 6h—Other: Enter the total of all other costs. Such costs, where applicable, may include, but are not limited to: Insurance, medical and dental costs; noncontractual fees and travel paid directly to individual consultants; local transportation (all travel which does not require per diem is considered local travel); space and equipment rentals; printing and publication; computer use; training costs, including tuition and stipends, training service costs including wage payments to individuals and supportive service payments; and staff development costs.

Line 6i—Total Direct Charges: Show the totals of Lines 6a through 6h.

Line 6j—Indirect Charges: Enter the total amount of indirect charges (costs), if any. If no indirect costs are requested, enter "none." Indirect charges may be requested if: (1) The applicant has a current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency; or (2) the applicant is a State or local government agency.

Applicants other than State and local governments are requested to enclose a copy of this agreement. Local and State governments should enter the amount of indirect costs determined in accordance with HHS requirements. When an indirect cost rate is requested, these costs are included in the indirect cost pool and should not be also charged as direct costs to the grant.

In the case of training grants to other than State or local governments (as defined in 45 CFR part 74), Federal reimbursement of indirect costs will be limited to the lesser of the negotiated (or actual) indirect cost rate or 8 percent of the amount allowed for total project (Federal and non-Federal) direct costs exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations. As part of the justification, applications subject to this limitation should specify that the Federal reimbursement will be limited to 8%.

For training grant applications, the entry for line 6j should be the total indirect costs being charged to the project. The Federal share of indirect costs is calculated as shown above. The applicant's share is calculated as follows:

(a) Calculate total project indirect costs (a*) by applying the applicant's approved indirect cost rate to the total project (Federal and non-Federal) direct costs.

(b) Calculate the Federal share of indirect costs (b*) at 8 percent of the amount allowed for total project (Federal and non-Federal) direct costs exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, alterations and renovations.

(c) Subtract b* from a*. The remainder is what the applicant can claim as part of its matching cost contribution.

Line 6k—Total: Enter the total amounts of Lines 6i and 6j.

Line 7—Program Income: Estimate the amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Describe the nature, source, and expected use of income in the Level of Effort section of the Program Narrative.

Section C—Non-Federal Resources

Line 12—Totals: Enter amounts of non-Federal resources that will be used in carrying out the proposed project. If third-party in-kind contributions are included, provide a brief explanation in the budget justification section.

Section D—Forecasted Cash Needs: Not Applicable

Section E—Budget Estimate of Federal Funds Needed for Balance of the Project

This section should be completed only if the total project period exceeds 17 months.

Line 20—Totals: Enter the estimated required Federal funds (exclude estimates of the amount of cost sharing) for the period covering months 13 through 24 under column "(b) First;" and, if applicable, for months 25 through 36 under "(c) Second."

Section F—Other Budget Information

Line 21—Direct Charges: Not applicable.

Line 22—Indirect Charges: Enter the type of indirect rate (provisional, predetermined, final or fixed) to be in effect during the funding period, the base to which the rate is applied, and the total indirect costs.

Line 23—Remarks: Provide any other explanations or comments deemed necessary.

3. SF 424B—Assurances

SF 424B, Assurances—Non-Construction Programs, contains assurances required of applicants under the Discretionary Funds Program of the Administration on Aging. Please note that a duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances.

With the possible exception of an Assurance of Protection of Human Subjects, no other assurances are required. For research projects in which human subjects may be at risk, an Assurance of Protection of Human Subjects may be needed. If there is a question regarding the applicability of this assurance, contact the Office of Research Risks of the National Institutes of Health at (301) 496-7041.

4. Certification Forms

Certifications are required of the applicant regarding (a) lobbying; (b) debarment, suspension, and other responsibility matters; and (3) drug-free workplace requirements. Please note that a duly authorized representative of the applicant organization must attest to the applicant's compliance with these certifications.

5. Project Summary Description

On a separate page, provide a project summary description headed by two identifiers: (1) The name of the applicant organization as shown in SF 424, item 5 and (2) the priority area as shown in the upper left hand corner of SF 424. Please limit the summary description to a maximum of 1,200 characters, including words, spaces and punctuation.

The description should be specific and succinct. It should outline the objectives of the project, the approaches to be used and the outcomes expected. At the end of the summary, list major products that will result from the proposed project (such as manuals, data collection instruments, training packages, audio-visuals, software packages). The project summary description, together with the information on the SF 424, becomes the project "abstract" which is entered into AoA's computer data base. The project description provides the reviewer with an introduction to the substantive parts of the application. Therefore, care should be taken to produce a summary which accurately and concisely reflects the proposal.

6. Program Narrative

The Program Narrative is the most important part of the application. It should be clear, concise, and pertinent to the priority area under which the application is being submitted. In describing your proposed project, make certain that you respond fully to the evaluation criteria set forth in Section F above. The format of the narrative should, in fact, parallel the criteria, beginning with an integrated discussion of (a) the project's objectives, relevance, and significance which set the agenda and provide the justification for (b) the results/benefits that you expect the project to accomplish; followed by a detailed explanation of (c) the approach(es) the project would take to achieve its objectives; and ending with (d) the level of effort the project would undertake, in terms of staff, funding, and other resources. Please have the narrative typed on one side of 8½"×11" plain white paper with one-inch margins on both sides. All pages of the narrative (including charts, tables, maps, exhibits, etc.) should be sequentially numbered, beginning with "Objectives and Need for Assistance" as page number one. (Applicants should not submit reproductions of larger size paper, reduced to meet the size requirement).

The narrative should conclude by identifying the author(s) of the proposal, their relationship with the applicant, and the role they will play, if any, should the project be funded.

This narrative guidance is in accordance with that provided in OMB Circular A-102. The checklist reporting form (Section K, below) is consistent with that approved under OMB control number 0937-0189.

7. Organizational Capability Statement and Vitae for Key Project Personnel

The organizational capability statement should describe how the applicant agency (or the particular division of a larger agency which will have responsibility for this

project) is organized, the nature and scope of its work and/or the capabilities it possesses. This description should cover capabilities of the applicant not included in the program narrative. It may include descriptions of any current or previous relevant experience or describe the competence of the project team and its track record for preparing cogent and useful reports, publications, and other products. An organization chart showing the relationship of the project to the current organization should be included.

Vitae should be included for key project staff only.

K. Checklist for a Complete Application

The checklist below should be typed on 8½"×11" plain white paper, completed and included in your application package. It is for use in ensuring proper preparation of your application.

Checklist

I have checked my application package to ensure that it includes or is in accord with the following:

- One original application plus two copies, each stapled securely (no folders or binders) with the SF 424 as the first page of each copy of the application;
- SF 424; SF 424A—Budget Information (and accompanying Budget Justification); SF 424B—Assurances; and Certifications;
- SF 424 has been completed according to the instructions, signed and dated by an authorized official (item 18);
- The number of the priority area under which the application is submitted has been identified in the box provided at the top left of the SF 424;
- As necessary, a copy of the current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency;

- Proof of nonprofit status, as necessary;
- Summary description;
- Program narrative;
- Organizational capability statement and vitae for key personnel;
- Letters of commitment and cooperation, as appropriate.

L. Points to Remember

1. There is a forty (40) double-spaced page limitation for the substantive parts of the application. Before submitting your application, please check that you have adhered to this requirement which is spelled out in Section D.

2. You are required to send an original and two copies of an application.

3. Designate a priority area in the box provided at the top left hand corner of the SF 424.

4. The summary description (1,200 characters or less) should accurately reflect the nature and scope of the proposed project.

5. To meet the cost sharing requirement (see Section C above), you must, at a minimum, match \$1 for every \$3 requested in Federal funding to reach 25% of the total project cost (except for Priority Area 1.4 which requires, at a minimum, a grantee share of 50% of total project costs). For example, if your request for Federal funds is \$90,000, then the required minimum match or cost sharing is \$30,000. The total project cost is \$120,000, of which your \$30,000 share is 25%.

6. Indirect costs of training grants may not exceed 8%.

7. In following the required format for preparing the program narrative, make certain that you have responded fully to

the four (4) evaluative criteria which will be used by reviewers to evaluate and score all applications.

8. Do not include letters which endorse the project in general and perfunctory terms. In contrast, letters which describe and verify tangible commitments to the project, e.g., funds, staff, space, should be included.

9. If duplicate applications are submitted under different priority areas, AoA reserves the right to select the single priority area under which it will be reviewed.

10. If more than one project application is submitted, each should be submitted under separate cover.

11. Before submitting the application, have someone other than the author(s): 1) apply the screening requirements to make sure you are in compliance; and 2) carry out a trial run review based upon the evaluative criteria. Take the opportunity to consider the results of the trial run and then make whatever changes you deem appropriate.

12. Applications must be mailed by midnight or hand delivered by 5:30 p.m., Eastern Time of June 30, 1992 to: Department of Health and Human Services, Administration on Aging, Office of Administration and Management, 330 Independence Avenue, SW., Room 4256, Washington, DC 20201, Attn: AoA-92-1.

Dated: April 22, 1992.

Joyce T. Berry,

U.S. Commissioner on Aging, Administration on Aging.

BILLING CODE 4130-02-M

APPLICATION FOR
FEDERAL ASSISTANCE

OMB Approval No 0348-0043

1 TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction <input checked="" type="checkbox"/> Non-Construction <input type="checkbox"/> Non-Construction		2 DATE SUBMITTED 	Applicant Identifier 																					
3 DATE RECEIVED BY STATE Not Applicable (N.A.)		State Application Identifier N.A.																						
4 DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier																						
5 APPLICANT INFORMATION																								
Legal Name 		Organizational Unit 																						
Address (give city county state and zip code) 		Name and telephone number of the person to be contacted on matters involving this application (give area code) 																						
6 EMPLOYER IDENTIFICATION NUMBER (EIN) <div style="border: 1px solid black; width: 150px; height: 20px; margin: 5px 0;"></div>		7. TYPE OF APPLICANT (enter appropriate letter in box) <input type="checkbox"/> <div style="display: flex; justify-content: space-between; font-size: small;"> <div> A State B County C Municipal D Township E Interstate F Intermunicipal G Special District </div> <div> H Independent School Dist. I State Controlled Institution of Higher Learning J Private University K Indian Tribe L Individual M Profit Organization N Other (Specify) _____ </div> </div>																						
8. TYPE OF APPLICATION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es) <input type="checkbox"/> <input type="checkbox"/> A Increase Award B Decrease Award C Increase Duration D Decrease Duration Other (specify) _____		9. NAME OF FEDERAL AGENCY Administration on Aging																						
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: <div style="display: flex; align-items: center; gap: 5px;"> <div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;">9</div> <div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;">3</div> <div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;">6</div> <div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;">6</div> <div style="border: 1px solid black; width: 20px; height: 20px; text-align: center;">8</div> </div>		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: 																						
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.) Nation-wide Applicability		 																						
13. PROPOSED PROJECT <div style="display: flex;"> <div style="flex: 1;">Start Date</div> <div style="flex: 1;">Ending Date</div> </div>		14. CONGRESSIONAL DISTRICTS OF a Applicant _____ b Project _____																						
15. ESTIMATED FUNDING <table border="1" style="width:100%; border-collapse: collapse; font-size: small;"> <tr> <td style="width:30%;">a Federal</td> <td style="width:10%;">\$</td> <td style="width:10%; text-align: right;">.00</td> </tr> <tr> <td>b Applicant</td> <td>\$</td> <td style="text-align: right;">.00</td> </tr> <tr> <td>c State</td> <td>\$</td> <td style="text-align: right;">.00</td> </tr> <tr> <td>d Local</td> <td>\$</td> <td style="text-align: right;">.00</td> </tr> <tr> <td>e Other</td> <td>\$</td> <td style="text-align: right;">.00</td> </tr> <tr> <td>f Program Income</td> <td>\$</td> <td style="text-align: right;">.00</td> </tr> <tr> <td>g TOTAL</td> <td>\$</td> <td style="text-align: right;">.00</td> </tr> </table>		a Federal	\$.00	b Applicant	\$.00	c State	\$.00	d Local	\$.00	e Other	\$.00	f Program Income	\$.00	g TOTAL	\$.00	16 IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a YES THIS PREAPPLICATION APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____ b NO <input checked="" type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
a Federal	\$.00																						
b Applicant	\$.00																						
c State	\$.00																						
d Local	\$.00																						
e Other	\$.00																						
f Program Income	\$.00																						
g TOTAL	\$.00																						
17 IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes," attach an explanation <input type="checkbox"/> No		 																						
18 TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL DATA IN THIS APPLICATION PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED																								
a Typed Name of Authorized Representative		b Title	c Telephone number																					
d Signature of Authorized Representative		e Date Signed																						

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Standard Form 424 (REV. 4-88)
Printed 1-1-92

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OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A — BUDGET SUMMARY						
Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		Total (g)
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	
1.		\$	\$	\$	\$	\$
2.						
3.						
4.						
5. TOTALS		\$	\$	\$	\$	\$
SECTION B — BUDGET CATEGORIES						
GRANT PROGRAM, FUNCTION OR ACTIVITY						
6 Object Class Categories	(1)	(2)	(3)	(4)	Total (5)	
a. Personnel	\$	\$	\$	\$	\$	
b. Fringe Benefits						
c. Travel						
d. Equipment						
e. Supplies						
f. Contractual						
g. Construction						
h. Other						
i. Total Direct Charges (sum of 6a - 6h)						
j. Indirect Charges						
k. TOTALS (sum of 6i and 6j)	\$	\$	\$	\$	\$	
l. Program Income	\$	\$	\$	\$	\$	

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	\$	\$	\$	\$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	\$	\$	\$	\$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$	\$	\$	\$	\$
14. Nonfederal					
15. TOTAL (sum of lines 13 and 14)	\$	\$	\$	\$	\$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Year)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	\$	\$	\$	\$
17.				
18.				
19.				
20. TOTALS (sum of lines 16-19)	\$	\$	\$	\$

SECTION F - OTHER BUDGET INFORMATION
(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

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OMB Approval No. 0348-0043

APPLICATION FOR
FEDERAL ASSISTANCE

3.4		2 DATE SUBMITTED June 23, 1992	Applicant Identifier
1 TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input checked="" type="checkbox"/> Non-Construction		3 DATE RECEIVED BY STATE Not Applicable (N.A.)	State Application Identifier N.A.
Preapplication <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		4 DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier
5 APPLICANT INFORMATION			
Legal Name XYZ Agency		Organizational Unit Division of Aging	
Address (give city, county, state, and zip code) 3456 Smith Street Jonesville, Nebraska		Name and telephone number of the person to be contacted on matters involving this application (give area code) Jane Doe (123) 444-5555	
6 EMPLOYER IDENTIFICATION NUMBER (EIN) 2 3 - 5 6 7 8 9 0 1		7 TYPE OF APPLICANT (enter appropriate letter in box) A A State B County C Municipal D Township E Interstate F Intermunicipal G Special District H Independent School Dist I State Controlled Institution of Higher Learning J Private University K Indian Tribe L Individual M Private Organization N Other (Specify)	
8 TYPE OF APPLICATION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es) <input type="checkbox"/> <input type="checkbox"/> A Increase Award B Decrease Award C Increase Duration D Decrease Duration Other (specify):		9 NAME OF FEDERAL AGENCY Administration on Aging	
10 CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER 9 3 . 6 6		DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Improved Programs for the At-Risk Elderly	
12 AREAS AFFECTED BY PROJECT (cities, counties, states, etc.) Nation-wide Applicability			
13 PROPOSED PROJECT Start Date: 09/01/92 Ending Date: 01/31/94		14 CONGRESSIONAL DISTRICTS OF a Applicant b Project 1-5	
15 ESTIMATED FUNDING a Federal \$ 75,000.00 b Applicant \$ 25,000.00 c State \$.00 d Local \$.00 e Other \$.00 f Program Income \$.00 g TOTAL \$ 100,000.00		16 IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a YES THIS PREAPPLICATION APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____ b NO <input checked="" type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
17 IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes" attach an explanation <input checked="" type="checkbox"/> No			
18 TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED			
a Typed Name of Authorized Representative John Roe		b Title Executive Director	c Telephone number 333/444-5555
d Signature of Authorized Representative		e Date Signed 06/22/92	

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BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A — BUDGET SUMMARY

SECTION A - BUDGET SUMMARY						
Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1		\$	\$	\$	\$	\$
2						
3						
4						
5. TOTALS	93.668	\$	\$	\$ 75,000	\$ 25,000	\$ 100,000

SECTION B — BUDGET CATEGORIES

Object Class Categories	BUDGET CATEGORIES					Total (5)
	(1)	(2)	(3)	(4)	(5)	
a. Personnel	\$	\$	\$	\$	\$	\$ 50,000
b. Fringe Benefits						15,000
c. Travel						4,000
d. Equipment						1,000
e. Supplies						2,000
f. Contractual						4,000
g. Construction						N.A.
h. Other						9,000
i. Total Direct Charges (sum of 6a - 6h)						85,000
j. Indirect Charges						15,000
k. TOTALS (sum of 6i and 6j)	\$	\$	\$	\$	\$	\$ 100,000
7. Program Income	\$	\$	\$	\$	\$	\$

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Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	\$	\$	\$	\$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	\$ 25,000	\$	\$	\$ 25,000

SECTION D - FORECASTED CASH NEEDS

	Total for FY 92	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$		\$	\$	\$
14. Nonfederal					
15. TOTAL (sum of lines 13 and 14)	\$	\$	\$	\$	\$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	\$	\$	\$	\$
17.				
18.				
19.				
20. TOTALS (sum of lines 16-19)	\$	\$	\$	\$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:

22. Indirect Charges:

23. Remarks

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Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR part 900 subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (Pub. L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (Pub. L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (Pub. L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 468a-1 et seq.).
14. Will comply with Pub. L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (Pub. L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official _____
Title _____

Applicant Organization _____
Date submitted _____

Certification Regarding Lobbying**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal Appropriated Funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or any agency, a Member of Congress, an officer or employee of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an Federal contract, grant, loan or cooperative agreement, the undersigned shall complete a submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or

entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Organization

Authorized Signature

Title

Date

Note: If Disclosure Forms are required, please contact: Margaret A. Tolson, Director, Grants Management Division; 330 Independence Avenue, SW., Room 4256-COHN; Washington, DC 20201-0001.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension,

Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction," provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Drug-Free Workplace Requirements; Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of solo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance

of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)

Check ☐ if there are workplaces on file that are not identified here.

Sections 76.630 (c) and (d)(2) and 76.635 (a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, SW., Washington, DC 20201.

Signature _____

Date _____

Title _____

Organization _____

[FR Doc. 92-9908 Filed 4-29-92; 8:45 am]

BILLING CODE 4130-02-M

Centers for Disease Control

Ergonomic Intervention in the Red Meatpacking Industry; Meeting

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) announces the following meeting.

Name: Demonstration of an Ergonomic Intervention in the Red Meatpacking Industry.

Time and Date: 9:30 a.m.-3 p.m., May 28, 1992.

Place: Alice Hamilton Laboratory, Conference Room C, NIOSH, CDC, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Status: Open to the public, limited only by the space available.

Purpose: To conduct an open meeting for the review of a NIOSH project entitled "Demonstration of an Ergonomic Intervention in the Red Meatpacking Industry." This project involves the development of a participatory ergonomic intervention in the red meatpacking industry.

Contact Person for Additional Information: Christopher C. Gjessing, NIOSH, CDC, 4676 Columbia Parkway, Mailstop R-2, Cincinnati, Ohio 45226, telephone 513/841-4354 or FTS 684-4354.

Dated: April 23, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92-10050 Filed 4-29-92; 8:45 am]

BILLING CODE 4160-19-M

Immunization Practices Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following committee meeting:

Name: Immunization Practices Advisory Committee.

Times and Dates: 8:30 a.m.-5 p.m., June 9, 1992. 8:30 a.m.-12 noon, June 10, 1992.

Place: CDC, Auditorium A, Building 2, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents.

Matters to be Discussed: The Committee will discuss polio vaccine; Haemophilus b conjugate vaccine; implementation of hepatitis B infant immunization; measles vaccine response; infant immunization schedules; BCG statement; health-care workers statement; and will consider other matters of relevance among the Committee's objectives. Agenda items

are subject to change as priorities dictate.

Contact Person for More Information: Gloria A. Kovach, Staff Specialist, CDC (1-B72), 1600 Clifton Road, NE, Mailstop A20, Atlanta, Georgia 30333, telephone 404/639-3851 or FTS 236-3851.

Dated: April 23, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92-10049 Filed 4-29-92; 8:45 am]

BILLING CODE 4160-18-M

Health Care Financing Administration

[BPD-761-N]

Medicare and Medicaid Programs; ICD-9-CM Coordination and Maintenance Committee Meeting

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the next meeting of the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM) Coordination and Maintenance Committee. The public is invited to participate in the discussion of the topic areas.

DATES: The meeting will be held on Thursday, May 7, 1992, from 9 a.m. to 5 p.m. Eastern Daylight Time.

ADDRESSES: The meeting will be held in room 503A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Laura Green, (410) 966-9364.

SUPPLEMENTARY INFORMATION:

The ICD-9-CM is the clinical modification of the World Health Organization's International Classification of Diseases, Ninth Revision. It is the coding system that we require for use by hospitals and other health care facilities in reporting both diagnoses and surgical procedures for Medicare, Medicaid, and all other health-related programs under the Department of Health and Human Services (DHHS). The work of the ICD-9-CM Coordination and Maintenance Committee will allow this coding system to continue to be an appropriate reporting tool for use in Federal programs.

The Committee is composed entirely of representatives from various Federal agencies interested in the International Classification of Diseases (ICD) and its modification, updating, and use in

Federal programs. It is co-chaired by the National Center for Health Statistics (NCHS) and the Health Care Financing Administration (HCFA).

The Committee holds public meetings to present proposed coding changes and other educational issues. The meetings provide an opportunity for input concerning these issues to representatives of organizations active in medical coding, as well as physicians, medical record administrators, and other members of the public. The Committee encourages the public to participate in these meetings. After considering the comments presented at the public meetings, the Committee makes recommendations concerning the proposed changes to the Director of NCHS and the Administrator of HCFA for their approval.

At the May 7, 1992 meeting, the Committee will discuss the following issues: segmental mastectomy; pleural biopsy; implantation of progesterone; surgical approaches; revision to Volume Three of the ICD-9-CM; viral warts; telogen effluvium; coagulation defects; crush injury of face, scalp, and neck; hypersensitivity reaction; place of occurrence E-codes; addenda; and other topics.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; Program No. 93.773, Medicare—Hospital Insurance, and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 24, 1992.

William Toby, Jr.,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 92-10029 Filed 4-29-92; 8:45 am]

BILLING CODE 4120-01-M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Meetings: National Advisory Allergy and Infectious Diseases Council; Acquired Immunodeficiency Syndrome Subcommittee; Allergy and Immunology Subcommittee; Microbiology and Infectious Diseases Subcommittee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on May 18-20, 1992 at the National Institutes of Health, Building 31C, Bethesda, Maryland 20892.

The meeting of the full Council will be open to the public on May 18 in

conference room 6 from approximately 1 p.m. until 3:30 p.m. for opening remarks of the Institute Director, discussion of procedural matters, Council business, and a report from the Institute Director which will include a discussion of budgetary matters. The primary program will include a report on the establishment of an NIAID vaccine working group; a discussion of the adult ACTG recompetition, a presentation on the NIAID research agenda for tuberculosis and an update on the NIH Peer Review Panel. On May 19 the meetings of the NAAIDC Acquired Immunodeficiency Syndrome Subcommittee, NAAIDC Allergy and Immunology Subcommittee and NAAIDC Microbiology and Infectious Diseases Subcommittee will be open to the public from 8 a.m. until recess. All three subcommittees will meet at the National Institutes of Health, Building 31C in conference rooms 6, 7 and 8 respectively.

On May 20 the meeting of the NAAIDC Acquired Immunodeficiency Syndrome Subcommittee will be open to the public from 8:30 a.m. until adjournment in Building 31C conference room 10.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting of the NAAIDC Acquired Immunodeficiency Syndrome Subcommittee, NAAIDC Allergy and Immunology Subcommittee and the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately three hours for review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 8:30 a.m. until approximately 1 p.m. on May 18, in conference rooms 6, 7, and 8 respectively. The meeting of the full Council will be closed from approximately 3:30 p.m. until recess on May 18 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone 301-496-5717, will provide a

summary of the meeting and a roster of the committee members upon request.

Dr. John J. McGowan, Director, Division of Extramural Activities, NIAID, NIH, Solar Building, room 4C07, 6003 Executive Boulevard, Rockville, Maryland 20892, telephone 301-496-7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research; National Institutes of Health)

Dated: April 16, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-10043 Filed 4-29-92; 8:45 am]

BILLING CODE 4140-01-M

Health Resources and Services Administration

Final Funding Priorities for Grants for Residency Training in General Internal Medicine and General Pediatrics

The Health Resources and Services Administration (HRSA) announces the final funding priorities for fiscal year (FY) 1992 for Grants for Residency Training in General Internal Medicine and General Pediatrics authorized under the authority of section 784, title VII of the Public Health Service (PHS) Act, as amended by the Health Professions Reauthorization Act of 1988, title VI of Public Law 100-607. This authority expired on September 30, 1991. This program announcement is subject to the reauthorization of the legislative authority. This program is presently operating under general appropriation legislation for the Departments of Health and Human Services and Labor, Public Law 102-170, with new authorizing legislation pending in the Congress.

Approximately \$14.0 million is available for this program in FY 1992. Of this amount \$11.3 million is committed to previously approved continuation applications. Approximately \$2.8 million is expected to be available to fund 12 competing awards averaging \$170,700.

Proposed Funding Priorities were published in the Federal Register dated July 10, 1991, at 56 FR 31413, for public comment. Comments were received from one respondent relating to funding priorities (1) and (3). The respondent expressed concern with the level of emphasis placed on the provision of medical services in order to encourage linkages between residency training programs and facilities that provide medical care to specified underserved

populations (funding priority #1). Although service to the underserved populations is promoted through this priority, the major focus remains on the clinical training of residents which is consistent with the program purpose.

The respondent was also concerned that applicants who seek to meet this funding priority may have to narrow their present balance of ambulatory training sites and focus entirely on sites that qualify under the funding priority criteria. The respondent expressed concern that the educational benefits to be gained from use of a variety of experiences may be undermined. In instances like that cited by the respondent, applicants must weigh the benefits to be gained from the funding priority against specific program concerns to assess if participation in this Federal initiative is in the best interest of the residency program. The respondent also stated that many facilities that serve substantial numbers of patients from underserved populations nevertheless do not qualify as a training site under this funding priority because they are not located in a designated medically underserved area (MUA) or health professions shortage area (HPSA). The wording of the funding priority does permit such institutions to qualify if 50 percent or more of their patients come from MUAs and/or HPSAs.

The respondent suggests that MUAs and HPSAs are inappropriate indices of the underserved and recommends an expanded definition of underserved. Under this approach, institutions that care for large numbers of patients on Medicaid, the homeless, infants on WIC, patients below some level of poverty, etc., would qualify for the funding priority. This is a potentially viable alternative method which will be considered for future application solicitations.

With regard to proposed funding priority #3, there appears to be a misunderstanding by the respondent about how to meet this priority. It is not prescriptive, but rather intends to provide the flexibility that the respondent suggests.

Finally, proposed funding priority #2 has been revised to delete reference to specific percentages of underrepresented minorities, while retaining the general goal of increasing the number of such minorities in these training programs.

Final Funding Priorities

The proposed funding priorities will be retained as follows. A funding priority will be given to:

1. Applications that propose to provide educational experiences to demonstrate to residents the provision of primary care services to underserved populations. These experiences must include substantial training involving one or more of the following eligible entities:

(1) Inpatient or outpatient health care facilities located in a Health Professional Shortage Area (HPSA), PHS Act, section 332 or in a Medically Underserved Area (MUA) designated under provisions of PHS Act, section 330(b)(3);

(2) Community Health Centers currently supported under PHS Act, section 330, Migrant Health Centers currently supported under PHS Act, section 329, Homeless Health Centers supported under PHS Act, section 340, facilities that have formal arrangements to provide primary health services to public housing communities, or hospitals and/or health care facilities of the Indian Health Service; or

(3) Health care facilities that draw at least 50 percent of their teaching program patients from areas or populations designated as HPSAs or MUAs.

2. Projects which satisfactorily demonstrate a net increase in enrollment of underrepresented minorities in proportion or more to their numbers in the general population or can document extent to which applicant attracts, retains and assures program completion of underrepresented minorities (i.e., Black, Hispanic and American Indian/Alaskan Native minority trainees).

3. Applications that demonstrate that curricular time and educational offerings will be devoted to demonstrating and achieving better preventive/primary care services for underserved communities, areas or populations.

Should additional programmatic information be required, please contact: Mr. Donald Buysse, Chief, Primary Care Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 4C-04, Rockville, Maryland 20857, telephone: (301) 443-3614.

This program is listed at 93.884 in the *Federal Catalog of Domestic Assistance*.

Dated: January 9, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92-10061 Filed 4-29-92; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Institute on Aging; Meetings

Pursuant to Public Law 92-463, notice is hereby given of Subcommittees A and B meetings of the Biological and Clinical Aging Review Committee, and of Subcommittee A of the Neuroscience, Behavior and Sociology of Aging Review Committee.

These meetings will be open to the public as indicated below to discuss administrative details and other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, for the review, discussion, and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, National Institute on Aging, Gateway Building, room 2C218, National Institutes of Health, Bethesda, Maryland, 20892 (301/496-9322), will provide summaries of the meetings and rosters of the committee members upon request.

Other information pertaining to the meetings can be obtained from the Executive Secretary indicated below:

Name of Subcommittee:

Subcommittee A—Biological and Clinical Aging Review Committee.

Executive Secretary: Dr. Daniel Eskinazi, Gateway Building, room 2C212, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-9666.

Date of Meeting: May 21, 1992.

Place of Meeting: Holiday Inn, 8120 Wisconsin Ave., Bethesda, Maryland 20814.

Open: May 21—8:30 a.m. to 9 a.m.

Closed: May 21—9 a.m. to 5 p.m.

Name of Subcommittee:

Subcommittee B—Biological and Clinical Aging Review Committee.

Executive Secretary: Dr. James Harwood, Gateway Building, room 2C212, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-9666.

Dates of Meeting: June 1-4, 1992.

Place of Meeting: Marriott Residence Inn, 7335 Wisconsin Ave., Bethesda, Maryland 20814.

Open: June 1—8 p.m. to 10 p.m.

Closed: June 2—8:30 a.m. to adjournment on June 4.

Name of Subcommittee:

Subcommittee A—Neuroscience, Behavior and Sociology of Aging Review Committee.

Executive Secretaries: Dr. Maria Mannarino, Dr. Louise Hsu, Gateway Building, room 2C212, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-9666.

Dates of Meeting: June 9–11, 1992.

Place of Meeting: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Bethesda, Maryland 20815.

Open: June 9—7:30 p.m. to 8 p.m.

Closed: June 9—8 p.m. to adjournment on June 11.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institute of Health)

Dated: April 16, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-10044 Filed 4-29-92; 8:45 am]

BILLING CODE 4140-01-M.

National Institutes of Diabetes and Digestive and Kidney Diseases Advisory Council and its Subcommittees; Meeting

Pursuant to Public Law 94-463, notice is hereby given of a meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its subcommittees, National Institute of Diabetes and Digestive and Kidney Diseases, on May 27–28, 1992, Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public May 27, from 8:30 a.m. to 12 noon and again on May 28, from 10:30 a.m. to adjournment to discuss administrative details relating to Council business and special reports. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the subcommittee and full Council meeting will be closed to the public for the review, discussion and evaluation of individual grant applications. The following subcommittees will be closed to the public on May 27, from 1 p.m. to 5 p.m.: Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney, Urologic and Hematologic Diseases. The full Council

meeting will be closed on May 28, from 8:30 a.m. to 10:30 a.m.

These deliberations could reveal confidential trade secrets or commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council meeting may be obtained from Dr. Walter Stolz, Executive Secretary, National Diabetes and Digestive and Kidney Diseases Advisory Council, NIDDK, Westwood Building, room 657, Bethesda, Maryland 20892, (301) 496-7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIDDK, Building 31, room 9A19, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-6917.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health.)

Dated: April 16, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-10045 Filed 4-29-92; 8:45 am]

BILLING CODE 4140-01-M.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-920-41-5700; WYW106742]

Proposed Reinstatement of Terminated Oil and Gas Lease

April 21, 1992.

Pursuant to the provisions of 30 U.S.C. 188(d), and 43 CFR 3103.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW106742 for lands in Converse County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lessee has agreed to the amended lease terms for rentals and royalties at rates of \$5.00 per acre, or fraction thereof, per year and 18% percent, respectively.

The lessee has paid the required \$500 administrative fee and \$125 to reimburse the Department for the cost of this Federal Register notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate

lease WYW106742 effective December 1, 1991, subject to the original terms and conditions of the lease and the increase rental and royalty rates cited above.

Florence R. Speltz,

Supervisory Land Law Examiner.

[FR Doc. 92-10065 Filed 4-29-92; 8:45 am]

BILLING CODE 4310-22-M.

[IDI-943-4212-11, I-17762, I-4332]

Termination of Recreation and Public Purpose Classification; ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Classification termination.

SUMMARY: This order terminates two Bureau of Land Management classifications affecting 84.69 acres of public land near Roberts, Idaho. After termination of the classifications, the underlying lands will be opened to the public land laws, including the mining laws.

EFFECTIVE DATE: April 30, 1992.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 208-384-3162.

By virtue of the authority vested in the Secretary of the Interior by the Recreation and Public Purposes Act of June 14, 1926, as amended; 43 U.S.C. 869; 869-4; it is ordered as follows:

1. Pursuant to the regulations in 43 CFR 2091.7-1(b)(1) and the authority delegated to me by BLM Manual section 1203 (48 FR 85), the classification decisions of January 16, 1972, and March 1, 1982, which classified 84.69 acres of public land as suitable for lease for recreation and public purposes under the Act of June 14, 1926, as amended; 43 U.S.C. 869; 869-4 are hereby revoked. The lands are described as follows:

Boise Meridian, Idaho

T. 4 N., R. 36 E.,

Sec. 3, lot 4;

Sec. 4, lot 1.

The area described contains 84.69 acres in Jefferson County.

2. At 9 a.m. on June 1, 1992, the lands described in paragraph one will be opened to the public land laws, generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on June 1, 1992, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on June 1, 1992, the lands described in paragraph one will be opened to location and entry under the mining laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. Appropriation of land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: April 20, 1992.

Delmar D. Vail,

State Director.

[FR Doc. 92-10065 Filed 4-29-92; 8:45 am]

BILLING CODE 4310-GG-M

Fish and Wildlife Service

Availability of a Draft Recovery Plan for *Apios Priceana* (Price's Potato Bean) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for *Apios priceana* (Price's potato bean). This rare perennial vine is currently known to occur in open woods, along wood edges, and along the edges of creeks and rivers, disjunctly in Alabama, Mississippi, Kentucky, and Tennessee. Populations occur on private and Federal lands and only 25 populations of Price's potato bean are currently known to exist. A historical population from Union County, Illinois has not been relocated in recent years. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before July 15, 1992 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Jackson Field Office, U.S. Fish and Wildlife Service, 6576 Dogwood View Parkway Suite A,

Jackson, Mississippi 39213. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Cary Norquist at the above address (601/965-4900).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The species considered in this draft recovery plan is *Apios priceana* (Price's potato bean), a plant in the bean family. Price's potato bean was listed as a threatened species in 1990 due to the limited number of populations, extirpation of a number of sites (a total of 11), and continuing decline of populations from adverse modifications or loss of habitat associated with pasturing, clearcutting, and lack of habitat management. Several populations are located near road or utility rights-of-way and these are potentially threatened by herbicide application.

The recovery objective of the proposed plan is to ensure the

protection of 40 viable populations representative of its historic range. This will be accomplished through: (1) Protection and management of extant populations through landowner cooperation and regulatory means, (2) monitoring of extant sites and searching for additional populations, (3) conducting demographic studies and gathering information on the species' biology and habitat, and (4) preserving genetic stock through maintenance of plants and seeds *ex situ*.

This Plan is being submitted for technical/agency review. After consideration of comments received during the review period, it will be submitted for final approval.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority of this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Robert Bowker,

Complex Field Supervisor.

[FR Doc. 92-10078 Filed 4-29-92; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Public Focus Group Meetings on the American Heritage (Area) (Landscape) Program

AGENCY: National Park Service, Interior.

ACTION: Notice is given that the national Park Service is conducting a series of public focus meetings to discuss all aspects of the American Heritage (Area) (Landscape) program concept paper. Copies of the paper may be obtained by fax, mail or telephone from Michael Spratt (303) 969-2248 or John Bradley (303) 969-2858 at the following address: National Park Service, Denver Service Center—TEA, P.O. Box 25287, Denver, Colorado 80225-0287.

FAX (303) 987-6676.

The public focus meetings are open to the public at the following locations and times throughout the United States.

May 13, 1992—Chicago 1 to 4 p.m., Navy Pier in the Offices of the Metropolitan Pier and Exposition Authority, 600 E Grand Avenue, Terminal Building, 3rd Floor, Chicago, Illinois, Contact Wendy Brand at (708) 682-3518.

May 13, 1992—San Francisco, 1 to 4 p.m., Golden Gate National Recreation Area, Park Headquarters,

1st Floor Conference Room, Building 201, Fort Mason, San Francisco, California, Contact Joan Chaplick at (415) 484-3968.

May 19, 1992—Washington DC, 1 to 4 p.m., National Park Service Building, 1100 L Street NW., 1st Floor (Large) Hearing Room, Washington, DC, Contact Alan Turnbull at (202) 343-3780.

May 21, 1992—New Orleans, 1 to 4 p.m., World Trade Center, 2 Canal Street, 18th Floor Crescent City Room, New Orleans, Louisiana, Contact Michael Spratt (303) 969-2248.

May 27, 1992—Denver, 1 to 4 p.m., City of Lakewood Municipal Center, 445 South Allison Parkway (Wadsworth and Alameda), Belmar Room, Lakewood, Colorado, Contact John Bradley (303) 969-2858.

John J. Reynolds,

Assistant Director, Design and Construction, Denver Service Center Operations.

[FR Doc. 92-10051 Filed 4-29-92; 8:45 am]

BILLING CODE 4310-70-M

Subsistence Resource Commission, Meeting

SUMMARY: The Superintendent of Gates of the Arctic National Park and Preserve and the Chairperson of the Subsistence Resource Commission for Gates of the Arctic National Park announce a forthcoming meeting of the Gates of the Arctic National Park Subsistence Resource Commission.

The following agenda items will be discussed:

- (1) Call to order.
- (2) Roll call.
- (3) Approval of Summary of Minutes.
- (4) Superintendent's welcome.
 - a. Introduction of guests.
 - b. Review of SRC function and purpose.
- (5) Resident Zone Community Reports.
- (6) Old Business.
 - a. Hunting Plan recommendations.
 - Review all previous resolutions.
- (7) New business.
 - a. Federal Subsistence Management Program.
 - Federal Board decisions.
 - EIS alternative selected and ramifications.
 - b. Superintendent's report.
 - Update on subsistence research program.
 - Subsistence permit application and issuance.
 - Cooperative management strategy concepts.
 - c. Agency reports.
 - Dalton Highway corridor management plan (BLM).

—Subsistence research (Tanana Chiefs Conference).

—Other agency and public comments.

(8) Time and place of next meeting.

(9) Adjournment.

DATES: The meeting will begin at 9 a.m. on Tuesday, May 5, 1992, and conclude around 5 p.m. The meeting will reconvene at 9 a.m. on Wednesday, May 6, 1992, and conclude around 5 p.m.

ADDRESSES: The meeting will be held at the Regency Fairbanks Hotel, Room 49, Fairbanks, Alaska.

FOR FURTHER INFORMATION CONTACT: Roger Siglin, Superintendent, P.O. Box 74680, Fairbanks, Alaska 99707. Phone (907) 456-0281.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commission is authorized under title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96-487, and operates in accordance with the provisions of the Federal Advisory Committees Act.

Paul F. Haertel,

Acting Regional Director.

[FR Doc. 92-10052 Filed 4-29-92; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32047]

Indiana Southern Railroad, Inc.—Acquisition and Operation Exemption—Consolidated Rail Corporation Line Between Evansville and Indianapolis, IN

The Indiana Southern Railroad, Inc. (ISR),¹ a wholly-owned subsidiary of RailTex, Inc. (RailTex), has filed a verified notice of exemption to acquire and operate Consolidated Rail Corporation's (Conrail) Petersburg Cluster, approximately 190 miles of rail line between Evansville and Indianapolis, in Greene, Daviess, Pike, Gibson, Warrick, Vanderburgh, Marion, Hendricks, Morgan, Owen and Knox Counties, IN. The transaction was expected to be consummated on or about April 10, 1992.

This transaction is related to a verified notice concurrently filed in Finance Docket No. 32048, *RailTex, Inc.—Continuance in Control Exemption—Indiana Southern Railroad, Inc.*, to exempt RailTex's continuance in

control of ISR once ISR becomes a carrier.

Any comments must be filed with the Commission and served on: Kelvin J. Dowd, Esq., Slover & Loftus, 1224 Seventeenth Street NW., Washington, DC 20036.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: April 22, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-10070 Filed 4-29-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32048]

Railtex, Inc.—Continuance in Control Exemption—Indiana Southern Railroad, Inc.

On April 3, 1992, RailTex, Inc. (RailTex), a noncarrier holding company, filed a verified notice of exemption to continue to control Indiana Southern Railroad, Inc. (ISR) once ISR becomes a carrier.

ISR's acquisition and operation of Consolidated Rail Corporation's 190-mile line between Evansville and Indianapolis, IN (known as the Petersburg Cluster) is the subject of a concurrently filed verified notice of exemption under 49 CFR 1150.31. See Finance Docket No. 32047, *Indiana Southern Railroad, Inc.—Acquisition and Operation Exemption—Consolidated Rail Corporation Line between Evansville and Indianapolis, IN*. That transaction was expected to be consummated on or about April 10, 1992.

Other than ISR, RailTex currently controls common carrier Class III railroads operating in twelve states.¹

¹ The Class III carriers RailTex controls are as follows: The Chesapeake and Albemarle Railroad Company, Inc.; the North Carolina & Virginia Railroad Company, Inc.; the Mid Michigan Railroad Company, Inc.; the Austin & Northwestern Railroad Company, Inc.; the South Carolina Central Railroad Company, Inc.; the Dallas, Garland & Northeastern Railroad; the San Diego & Imperial Valley Railroad; the New Orleans Lower Coast Railroad; and the Michigan Shore Railroad, Inc.

¹ It appears that ISR is currently a noncarrier. In Finance Docket No. 32048, *infra*, ISR is described as "a new carrier formed for the purpose of purchasing and operating approximately 190 miles of rail line . . ."

Railtex indicates that: (1) None of the lines of these carriers connects with ISR; (2) the continuance in control is not part of a series of anticipated transactions that could lead to a connection; and (3) the transaction does not involve a Class I carrier. The transaction therefore is exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the continuance in control shall be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Kelvin J. Dowd, Esq., Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

Decided: April 22, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.
Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 92-10069 Filed 4-29-92; 8:45 am]

BILLING CODE 7305-01-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

- (1) the title of the form/collection;
- (2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;
- (3) How often the form must be filled out or the information is collected;
- (4) Who will be asked or required to respond, as well as a brief abstract;
- (5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
- (6) An estimate of the total public burden (in hours) associated with the collection; and,
- (7) An indication as to whether

section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Lewis Arnold, on (202) 514-4305. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Revision of a Currently Approved Collection

- (1) 1992 National Prosecutors Survey Form (NPSP).
 - (2) NPSP-1. Bureau of Justice Statistics.
 - (3) Biennially.
 - (4) State or local governments. The purpose of this survey is to obtain from prosecutors information concerning felony sentencing. Respondents are state's attorneys in the 300 jurisdiction selected for the sample.
 - (5) 300 annual responses at .5 hours per response.
 - (6) 150 annual burden hours.
 - (7) Not applicable under section 3504(h).
- Public comment on these items is encouraged.

Dated: April 24, 1992.
Lewis Arnold,
Department Clearance Officer, Department of Justice.

[FR Doc. 92-10039 Filed 4-29-92; 8:45 am]

BILLING CODE 4410-18-M

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on April 8, 1992, a proposed Consent Decree in *United States of America v. Ben Lum Construction Ltd., American Trust Co. of Hawaii, Inc., Benjamin C.F. Lum, and Ernest K.F. Lum*, was lodged with the United States District Court for the District of Hawaii.

The proposed Consent Decree resolves the United States' claims against Ben Lum Construction Ltd., American Trust Co. of Hawaii, Inc., Benjamin C.F. Lum, and Ernest K.F. Lum ("Defendants") under section 112(b) of the Clean Air Act, 42 U.S.C. 7412(b), as alleged in a complaint filed on April 8, 1992. The Complaint alleged Defendants' violations of three different regulatory provisions of the National Emission Standard for Hazardous Air Pollutants ("NESHAP") for asbestos, which is published at 40 CFR part 61 subpart M (1990). Under the proposed Consent Decree Defendants will pay a civil penalty to the United States of twenty-eight thousand dollars and no cents (\$28,000) and agree to comply with the NESHAP for asbestos in the future.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environmental and Natural Resource Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States of America v. Ben Lum Construction Ltd., American Trust Co. of Hawaii, Inc., Benjamin C.F. Lum, and Ernest K.F. Lum*, DOJ Ref. No. 90-5-2-1-1608.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the District of Hawaii, U.S. Courthouse, 300 Ala Moana Blvd., Honolulu, Hawaii, or at the Office of the Regional Counsel, Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94103. The proposed Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004 (Tel.: (202) 347-2072). A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of eleven dollars and no cents (\$11.00) (25 cents per page reproduction costs) payable to Consent Decree Library.

John C. Cruden,
Chief, Environmental Enforcement Section,
Environmental and Natural Resources
Division.

[FR Doc. 92-10081 Filed 4-29-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of a Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on April 14, 1992, a proposed consent decree in *United States v. Cannons Engineering Corporation, et al.*, Civil Action No. 88-1786-WF, was lodged with the United States District Court for the District of Massachusetts. The decree resolves claims of the United States against three defendants in the above-referenced action under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") for contamination at four Superfund sites. The three settling defendants are the Cannons Engineering Corp., J. Robert Cannon and J. Scott Cannon (collectively, the "Settling Defendants"). The four sites are the Cannons Engineering Superfund Site in Bridgewater, Massachusetts, the Plymouth Superfund Site in Plymouth, Massachusetts, the Gilson Road Superfund Site in Nashua, New Hampshire, and the Tinkham's Garage Superfund Site in Londonberry, New Hampshire (collectively, the "Sites").

In the proposed consent decree the Settling Defendants agree to pay the United States \$480,500 in settlement of the United States' claims for past and future response costs incurred and to be incurred by the Environmental Protection Agency at the Sites. In addition, in the proposed consent decree J. Robert Cannon and the Cannons Engineering Corp. agree to grant certain interests in real property to the United States.

The proposed decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, (202) 347-2072. A copy of the decree may be obtained in person or by mail from the Document Center. In requesting copies of the decree, please enclose a check for \$16.25 (25 cents per page reproduction cost) payable to Consent Decree Library.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Cannons Engineering*

Corporation, et al., (DOJ Reference No. 90-11-3-105).

Barry M. Hartman,

Acting Assistant Attorney General,
Environment and Natural Resources Division.

[FR Doc. 92-10083 Filed 4-29-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to the Clean Air Act and the National Emissions Standards for Hazardous Air Pollutants for Asbestos

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on March 18, 1992, a proposed partial consent decree in *United States v. In-Tek Constructors, et al.*, Civil Action No. CIVS-92 353 WBS-JFM, was lodged with the United States District Court for the Eastern District of California. This is an action brought pursuant to the Clean Air Act, 42 U.S.C. 7401-7632, and the National Emissions Standards for Hazardous Air Pollutants ("NESHAP") asbestos, promulgated under Section 112 of the Act, 42 U.S.C. 7412. Under the terms of the proposed partial consent decree, the settling defendant agrees to submit to an extensive asbestos management program and to comply with certain injunctive provisions designed to insure that it does not violate the revised NESHAP in the future. The decree includes stipulated penalties in the event that EDIC fails to comply with the provisions of the decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed partial consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20530. Comments should refer to *United States v. In-Tek Constructors, et al.*, D.O.J. Ref. 90-5-2-1-1521.

The proposed partial consent decree may be examined at the Office of the Assistant United States Attorney, Eastern District of California, 3305 Federal Building, 650 Capitol Mall, Sacramento, CA 95814, and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave. Building, NW., Washington, DC 20004 (202-347-2072). A copy of the proposed partial consent decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, P.O. Box 1097, Washington, DC 20004. In requesting a copy by mail, please enclose a check in the amount of \$6.50 (25 cents per page

reproduction cost) payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section
Environment and Natural Resources Division.

[FR Doc. 92-10075 Filed 4-29-92; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on April 22, 1992, a proposed Consent Decree in *United States v. The Michael Company, et al.*, Civil Action No. 90-70-D-S, was lodged with the United States District Court for the Southern District of Iowa (Davenport Division).

The Complaint in this enforcement action was filed on May 25, 1990, against The Michael Company, Q.C. Battery Corporation, F. Raymond Michael, Karen Michael, Aluminum Company of America, Americold Corporation, Caron International, Inc., Hawkeye Wholesale Grocery Company, Inc., Heatlitor, Inc., Geo. A. Hormel & Company, Monsanto Company, Swiss Valley Farms, Thoms-Proestler Company, and Wal-Mart Stores, Inc. under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9607, seeking reimbursement of costs incurred by the United States in responding to the release or threat of release of hazardous substances from four sites (the Bettendorf Site, the Rolff Road Site, the Rockingham Road Site, and the Farragut Road Site) located in the Bettendorf/Davenport area of Iowa. The proposed consent decree has been entered into between the United States and the Aluminum Company of America (ALCOA) and relates to all four of the sites in this case.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States v. The Michael Company, et al.* (DOJ # 90-11-3-555).

The proposed Consent Decree may be examined at the office of the United States Attorney, Southern District of Iowa, 115 U.S. Courthouse, East 1st & Walnut Sts., Des Moines, Iowa 50309 and the United States Environmental Protection Agency, Region VII, 726

Minnesota Avenue, Kansas City, Kansas 66101. Copies of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, (202) 347-2072. In requesting a copy, please enclose a check in the amount of \$5.00 (25 cents per page reproduction costs), payable to the "Consent Decree Library."

Barry M. Hartman,
Acting Assistant Attorney General,
Environment and Natural Resources Division.
[FR Doc. 92-10076 Filed 4-29-92; 8:45 am]
BILLING CODE 4410-01-M

Lodging of Consent Decree

Notice is hereby given that a proposed Partial Consent Decree in *United States v. Midwest Solvent Recovery, Inc.*, Civil Action No. H-79-556, between the United States, State of Indiana, and DeSoto, Inc. was lodged on April 14, 1992 with the United States District Court for the Northern District of Indiana. This is an action under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 *et seq.*, in connection with the Midco I and Midco II Facilities in Gary, Indiana. The proposed Partial Consent Decree supplements the Main Consent Decree in *United States v. Midwest Solvent Recovery, Inc.*, that was lodged on January 31, 1992. Notice of the Main Consent Decree was published in the **Federal Register** on February 6, 1992, 57 FR 4645 (Feb. 6, 1992). Under the Partial Consent Decree, DeSoto, Inc. agrees to be jointly and severally liable for all of the Settling Defendants' obligations and responsibilities under the Main Consent Decree as if it were a Settling Defendant, except that the Partial Consent Decree has special provisions relating to financial security. Under the Partial Consent Decree, DeSoto, Inc. will also pay a civil fine of \$100,000, \$62,500 of which will be applied to the \$400,000 civil fine being paid by Settling Defendants under the Main Consent Decree.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Midwest Solvent Recovery, Inc.*, D.J. Ref. No. 90-7-1-1A. The proposed Consent Decree may be examined at the

Office of the United States Attorney for the Northern District of Indiana, 507 State Street, Hammond, Indiana 46320; the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604; and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004 (202)-347-2072. A copy of the proposed Consent Decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of \$6.50 (25 cents per page for reproduction costs), payable to the Consent Decree Library.
Roger Clegg,

Acting Assistant Attorney General,
Environment and Natural Resources Division.
[FR Doc. 92-10082 Filed 4-29-92; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act; Steiner et al.

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that two proposed consent decrees in *United States v. Steiner, et al.*, Civ. No. 90-00364-AK, were lodged on April 10, 1992, with the United States District Court for the District of Hawaii. That action was brought against defendants pursuant to the Clean Air Act for violations of the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for asbestos, which occurred during asbestos removal from a condominium unit in Waikiki, Honolulu, Hawaii.

Under the consent decrees, Defendants AR Corporation and Zachary Johnson are each required to pay a civil penalty of \$5000. In addition, Defendant Johnson, who is in the contracting business, must comply with the asbestos NESHAP and a prescribed asbestos management and training program if he engages in the regulated activity in the future.

The Department of Justice will receive comments relating to the proposed consent decrees for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States v. Steiner, et al.*, D.J. Ref. 90-5-2-1-1443.

The proposed consent decrees may be examined at the office of the United States Attorney, room C-242, U.S. Courthouse, 300 Ala Moana Blvd.,

Honolulu, Hawaii 96850; at the Region IX office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94103; and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, 202-347-2072. A copy of the proposed consent decrees may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of \$2.75 for the AR Corporation decree and/or \$8.50 for the Johnson decree plus its attachments (25 cents per page reproduction costs) payable to the Consent Decree Library. When requesting a copy, please refer to *United States v. Steiner, et al.*, D.J. Ref. 90-5-2-1-1443.

John C. Cruden,
Chief, Environmental Enforcement Section,
Environment and Natural Resources Division.

[FR Doc. 92-10033 Filed 4-29-92; 8:45 am]
BILLING CODE 4410-01-M

Lodging of Consent Decree in Action Under the Comprehensive Environmental Response, Compensation and Liability Act; Waste Management of Wisconsin et al.

In accordance with section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9622, and Departmental policy, 28 CFR 50.7, notice is hereby given that on April 21, 1992, the United States Department of Justice, by the authority of the Attorney General and acting at the request of and on behalf of the Administrator of the United States Environmental Protection Agency, lodged a Consent Decree in *United States v. Waste Management of Wisconsin, et al.* with the United States District Court for the Eastern District of Wisconsin. The Consent Decree addresses the hazardous substance contamination at the Hunts Disposal Landfill site in the Town of Caledonia, Racine County, Wisconsin. The Consent Decree requires the Settling Defendants to implement the remedial action selected and achieve cleanup standards set forth in the Record of Decision and the Scope of Work for the Hunts site. In addition, the Consent Decree requires the Settling Defendants to reimburse the United States for \$1,471,967.66 in past response costs incurred by the United States Environmental Protection Agency and the Department of Justice at the Hunts site, and to reimburse the United States for oversight costs.

The Department of Justice will receive written comments relating to the Consent Decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Waste Management of Wisconsin, et al.*, DOJ Reference No. 90-11-2-701.

The Consent Decree may be examined at the Region V Office of Regional Counsel, United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604, and at the Environmental Enforcement Section Document Center, United States Department of Justice, 601 Pennsylvania Avenue, N.W., Box 1097, Washington, DC 20004 (202-347-2072). A copy of the Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center. In requesting a copy, please enclose a check for \$42.50 (25 cents per page reproduction cost) payable to Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General
Environment and Natural Resources Division.

[FR Doc. 92-10032 Filed 4-29-92; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Pursuant to the National Cooperative Research Act of 1984; Gas Utilization Research Forum

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Gas Utilization Research Forum ("GURF") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission on March 11, 1992, concerning the identity of an additional member of GURF. The written notifications were filed for the purpose of extending the protections of section 4 of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

The following party has become a member of GURF:

Conoco, Inc., Production Technology,
Houston, Texas.

No other changes have been made in either the membership or planned activity of GURF.

On December 19, 1990, GURF filed its original notification pursuant to section 6(a) of the Act. The Department of

Register pursuant to section 6(b) of the Act on January 16, 1991, 56 FR 1655, on April 24, 1991, 56 FR 18837, on June 13, 1991, 56 FR 27272, and on February 21, 1992, 57 FR 6247.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-10080 Filed 4-29-92; 8:45 am]

BILLING CODE 4410-01-M

Pursuant to the National Cooperative Research Act of 1984; Massachusetts Institute of Technology and TV of Tomorrow Consortium

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Massachusetts Institute of Technology ("MIT") and the Television of Tomorrow Consortium ("TVOT") on March 24, 1992 filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its membership. The additional notification was filed for the purpose of extending the protections of section 4 of the Act, limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On June 25, 1990, MIT and TVOT filed their original notification pursuant to section 6(a) of the Act. The Department published a notice in the Federal Register pursuant to section 6(b) of the Act on September 27, 1990 (55 FR 39528).

The additional members are:

International Business Machines Corporation,
101 Main Street, Cambridge, MA 02142.

Deutsche Bundespost Telekom, General
Directorate, P.O. Box 2000—5300 Bonn 1,
Germany.

RAI-Radiotelevisione Italiana S.P.A., Viale
Massini #14, Rome, 00195, Italy.

The area of activity remains to conduct basic research into new digital systems, applications and techniques in an effort to develop and combine advanced computer and television technologies. This research will include, but will not be limited to, development of advanced methods of low-level and mid-level vision for use in motion analysis and image coding; development of scalable formats for video signals; studies of very high definition formats, brightness and contrast ratios, and advanced video display; development of advanced interface computation; and development of methods to produce

three-dimensional images, data compression and interactive systems.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-10036 Filed 4-29-92; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Notification; Petroleum Environmental Research Forum

Notice is hereby given that, on March 16, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), the participants in the Petroleum Environmental Research Forum ("PERF") Project No. 91-05, titled "Basic Principles and Control of Refinery Emulsion Formation—Part 2", have filed written notifications simultaneously with the Attorney General and with the Federal Trade Commission disclosing (1) the identities of the parties to the project and (2) the nature and objectives of the research to be performed in accordance with said project. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties participating in PERF Project No. 91-05, together with the nature and objectives of the research program, are given below.

The current parties to PERF Project No. 91-05 identified by this notice are:

Amoco Oil Company, Naperville, IL 60566-7011.

ARCO Products Company, Anaheim, CA 92803-6140.

BP America, Inc., Warrensville Heights, OH 44124.

Chevron Research and Technology Co.,
Richmond, CA 94802.

Conoco, Inc., Ponca City, OK 74603.

Exxon Research and Engineering Company,
Florham Park, NJ 07932.

Marathon Oil Company, Littleton, CO 80160.

Mobil Research and Development
Corporation, Paulsboro, NJ 08066-0480.

Texaco, Inc., Port Arthur, TX 77641.

Research and Development work required in furtherance of PERF Project No. 91-05 is to be carried out by North Carolina State University under contract with the above participants. The nature and objective of the research program performed in accordance with the Project is to identify fundamental causes or refiner emulsions and sludges.

Participation in this Project will remain open to interested persons and organizations until the issuance of the final Project Report, which is presently anticipated to occur twenty-six (26) months after the date of publication of

this notice. The participants intend to file additional written notifications disclosing all changes in membership of this Project.

Information regarding participation in this Project may be obtained from Dr. Kenneth R. Graziani, Mobil Research and Development Corporation, P.O. Box 480, 600 Billingsport Road, Paulsboro, New Jersey 08066-0480.

Joseph H. Widmar,

Director of Operations Antitrust Division
[FR Doc. 92-10034 Filed 4-29-92; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Notification; "Ultra-Low Emission Engine Program"

Notice is hereby given that, on March 9, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), Southwest Research Institute ("SwRI") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of three parties to its group research project regarding "Ultra-Low Emission Engine Program". The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the SwRI advised that Mitsubishi Motors Corporation, Tokyo, Japan (effective December 20, 1991), Volkswagen AG, Wolfsburg, Germany (effective February 18, 1992), and Kia Motors Corporation, Gyeonggi-do, Republic of Korea (effective December 24, 1991) have become parties to the group research project.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the members intend to file additional written notification disclosing all changes in membership.

On November 13, 1991, SwRI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice ("the Department") published a notice in the *Federal Register* pursuant to Section 6(b) of the Act on December 9, 1991, 56 FR 64276. On January 9, 1992, SwRI filed an additional written notification. The Department published a notice in the *Federal Register* in response to the additional notification on January 29, 1992, 57 FR 3441. Additionally, a correction notice to the

December 9, 1991, notice was published on January 29, 1992, 57 FR 3441.

Joseph H. Widmar,

Director of Operations, Antitrust Division.
[FR Doc. 92-10035 Filed 4-29-92; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel Meeting

Pursuant to section 10(a)(92) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Jazz Fellowships Section) to the National Council on the Arts will be held on May 12-14, 1992 from 9 a.m.—5:30 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 14 from 3:30 p.m.—5:30 p.m. The topics will be policy discussions and guidelines review.

The remaining portions of this meeting on April 12-13 from 9 a.m.—5:30 p.m. and May 14 from 9 a.m.—3:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne Sabine,

Director, Council and Panel Operations
National Endowment for the Arts.
[FR Doc. 92-10071 Filed 4-29-92; 8:45 am]

BILLING CODE 7357-01-M

NATIONAL SCIENCE FOUNDATION

Committee Management; Establishment

The Director for the Office of Science & Technology Infrastructure has determined that the establishment of the Special Emphasis Panel in Science and Technology Infrastructure is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Special Emphasis Panel in Science and Technology Infrastructure.

Purpose: To advise on the merit of special initiative proposals or applications submitted to the Office of Science & Technology Infrastructure for financial support.

Balanced Membership Plan: Membership will be selected on an "as needed" basis in response to specific proposals/applications/sites to be reviewed. About 185 individual panelists will be used each year. Members will be selected for their demonstrated scientific and engineering expertise so as to represent a reasonable balance of capability in the various subfields of the proposals to be reviewed. Consideration will also be given to achieving geographic balance and to enhancing representation for women, minority, younger and disabled scientists.

Responsible NSF Official: Dr. Nathaniel Pitts, Director, Office of Science & Technology Infrastructure, National Science Foundation, room 533, 1800 G Street, NW, Washington DC 20550 (202) 357-9808.

Dated: April 27, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-10114 Filed 4-29-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Biotic Systems and Resources; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Biotic Systems and Resources.

Date and Time: May 20 & 21 1992; 8:30 a.m. to 5 p.m. Room 536, National Science Foundation, 1800 G. Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Penelope Firth, Division of Environmental Biology, National Science Foundation, room 215, Washington, DC 20550 (202/357-3978).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Review and evaluate Career Advancement Award and Research Planning Grant proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals, the meeting is closed to the public. These matters are exempt under U.S.C. 552b(c), (4) and (6) Government in the Sunshine Act.

Dated: April 27, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-10120 Filed 4-29-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Cross-Disciplinary Activities; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces these meetings:

Name: Special Emphasis Panel in Cross-Disciplinary Activities.

Date & Time: May 11-13, 1992; 8 a.m. to 5 p.m.

Place: Holiday Inn-Governor's House, 17th and Rhode Island Ave., NW.

Contact: Dr. Gerald L. Engel, Program Director, 202-357-7349.

Date & Time: June 11, 1992; 8 a.m. to 5 p.m.

Place: NSR, room 536, 1800 G Street, NW.

Contact: Dr. Gerald L. Engel, Program Director, 202-357-7349.

Types of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Agenda: To review and evaluate NSF Young Investigators nominations and Institutional Infrastructure-Minority Institutions proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 27, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-10116 Filed 4-29-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Electrical and Communications Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces the following two meetings:

Name: Special Emphasis Panel in Electrical and Communications Systems.

Date and Time: May 18-19, 1992; 8:30 a.m. to 5 p.m.

Place: Rooms 500-A through E, NSF, 1110 Vermont Ave., NW., Washington, DC 20005.

Contact Person: Dr. Brian Clifton, Program Director, Division of Electrical and Communications Systems, NSF, 1800 G Street, NW., room 1151, Washington, DC 20550. Telephone: (202) 357-9618.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Material Synthesis and Processing Program.

Date and Time: May 29, 1992; 8:30 a.m. to 6 p.m.

Place: Room 1133, NSF, 1800 G St., NW., Washington, DC 20550.

Contact Person: Dr. Paul Werbos, Program Director, Division of Electrical and Communications Systems, NSF, 1800 G Street, NW., room 1151, Washington, DC 20550. Telephone: (202) 357-9618.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Neuroengineering Program.

Types of Meetings: Closed.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b. (c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 27, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-10119 Filed 4-29-92; 8:45 am]

BILLING CODE 7555-01-M

Federal Network Council Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Federal Network Council Advisory Committee.

Date and Time: May 15, 1992; 9 a.m. to 4 p.m.

Place: Washington, DC. Call contact person for location.

Type of Meeting: Open.

Contact Person: Ms. Lynn Behnke, Executive Assistant, Federal Networking Council, 4001 N. Fairfax Drive, suite 200, Arlington, VA 22203-1644. Telephone: (703) 522-6410.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: The purpose of this meeting is to provide the Federal Networking Council (FNC) with technical, tactical, and strategic advice, concerning policies and issues raised in the implementation and deployment of the National Research and Education Network (NREN).

Agenda: FNC Management Plan, commercialization discussion, K-12 education, report on the NSFnet backbone competition, report on the NSFnet and NREN information services solicitation.

Dated: April 27, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-10115 Filed 4-29-92; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Genetic Biology; Meeting

The National Science Foundation announces the following meeting.

Name: Advisory Panel for Genetic Biology.

Date and Time: Monday, Tuesday, and Wednesday, May 18-20, 1992; 8:30 a.m. to 5 p.m.

Place: The National Science Foundation, 1800 G. St., NW., Room 1242.

Type Meeting: Closed.

Contact Person: DeLill Nasser, Program Director, Genetic Biology, room 325-N. Telephone: (202) 357-0112.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of proposals U.S.C. 552b(c), Government in the Sunshine Act.

Dated: April 27, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-10121 Filed 4-29-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Materials Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Materials Research.

Dates: May 17, 18, and 19, 1992.

Type of Meeting: Closed.

Contact Person: Dr. Lorretta J. Inglehart, Program Director, National Facilities and Instrumentation, Division of Materials Research, room 408, National Science Foundation, Washington, DC 20550 Telephone: (202) 357-9789.

Purpose of Meeting: To provide advice and recommendations concerning support for operation of the University of Wisconsin Synchrotron Radiation Laboratory.

Agenda: Review of the University of Wisconsin Synchrotron Radiation Laboratory Proposal.

Reason for Closing: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552 b. (c)(4) and (6) of the Government in the Sunshine Act.

Location	Date	Time
Sheraton Hotel Madison, Wisconsin	May 17 May 18	6-9 p.m. 7-9 p.m.
Physical Sciences Laboratory, Stoughton, Wisconsin	May 19 May 18	8 a.m.-5 p.m. 8 a.m.-5 p.m.

Dated: April 27, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-10118 Filed 4-29-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Physics; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Physics.

Dates: May 18-19, 1992.

Times: 8:30 a.m.—6 p.m., May 18, 1992. 8:30 a.m.—3 p.m., May 19, 1992.

Place: Seminar Room, National Superconducting Cyclotron Laboratory, Michigan State University, East Lansing, Michigan.

Type of Meeting: Closed.

Contact: Dr. John D. Fox, Program Director, Nuclear Physics Program, National Science Foundation, room 341, 1800 G St. NW.,

Washington, DC 20550 Telephone (202) 357-7993.

Purpose of Meeting: To provide advice and recommendations concerning a proposal submitted to the National Science Foundation for financial support.

Agenda: Review and evaluate a research proposal by Michigan State University.

Reason for Closing: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposal. These matters are exemption under 5 U.S.C. 552 b. (c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 27, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-10117 Filed 4-29-92; 8:45 am]

BILLING CODE 7555-05-M

NUCLEAR REGULATORY COMMISSION**Final Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission and the State of Washington**

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: This notice is to advise the public of the issuance of a Final Memorandum of Understanding (MOU) between the U.S. Nuclear Regulatory Commission (NRC) and the State of Washington. The MOU provides the basis for mutually agreeable procedures whereby Washington may utilize the NRC Emergency Response Data System (ERDS) to receive data during an emergency at a commercial nuclear power plant in the State of Washington.

EFFECTIVE DATE: March 23, 1992.

ADDRESSES: Copies of all NRC documents are available for public inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT:

John R. Jolicœur or Eric Weinstein, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492-4155 or (301) 492-7836.

SUPPLEMENTARY INFORMATION: Section 274i. of the Atomic Energy Act of 1954, as amended allows the U.S. Nuclear Regulatory Commission (Commission or NRC) to enter into an agreement with a State "to perform inspections or other functions on a cooperative basis as the Commission deems appropriate." A

section 274i. agreement, typically in the form of a MOU, differs from an agreement between NRC and a State under the "Agreement State" program; the latter is accomplished only by entering into an agreement under section 274b. of the Atomic Energy Act. A State can enter into a section 274i. MOU whether or not it has a section 274b. agreement.

Background

As a result of the accident at Three Mile Island, Unit 2, on March 28, 1979, the NRC and others recognized a need to improve the NRC's ability to acquire accurate and timely data on plant conditions during emergencies. The Emergency Response Data System (ERDS) has been developed to respond to this need. ERDS is a direct computer link between licensee computers at commercial nuclear power plants and computers at the NRC Operations Center at Bethesda, Maryland. The system allows for direct electronic transmission of a limited set of data points from the licensee computers to ERDS. Data transmitted over ERDS provides information concerning (1) core and coolant system conditions, needed to assess the extent or likelihood of core damage, (2) conditions inside the containment building, needed to assess the likelihood and consequences of containment failure, (3) radioactivity release rates, needed to assess the immediacy and degree of public danger, and (4) data from the plant meteorological tower, needed to assess the likely patterns of potential or actual impact on the public.

The ERDS design provides for access to ERDS data by State governments which have jurisdiction over any area which falls within the 10-mile plume exposure Emergency Planning Zone (EPZ) around each nuclear power plant.

On May 7, 1991 (56 FR 21178), the NRC published a proposed MOU between the NRC and the State of Michigan. This MOU was designed to be generic in nature. It was to be used as the foundation on which all MOUs with other States on ERDS would be based. The MOU defines the manner in which the NRC and the State of Michigan will cooperate in planning and maintaining the capability to transfer data relating to plant conditions during emergencies at nuclear power plants located in Michigan through ERDS.

Public Comments

Interested parties were invited to submit comments on the proposed MOU. Comments were received from five State governments and the Federal

Emergency Management Agency. Comments received on the proposed MOU were docketed and may be examined at the Commission's Public Document Room located at 2120 L Street, NW. (Lower Level), Washington, DC. Upon consideration and disposition of comments received as set forth below, the NRC has entered into the MOU with the State of Michigan without modification. Although some comments received may provide the basis for discussion of potential modification in the standard MOU on a State by State basis, no cause was found in the comments to modify the MOU in question prior to issuance.

Analysis of Public Comments

1. *Comment:* In the case of nuclear power plants which lie within ten miles of a State border, will the NRC transmit ERDS data to bordering States which include a portion of the ten-mile EPZ.

Response: The ERDS can be configured to send data to all States which are included within the ten-mile plume exposure EPZ around a nuclear power plant.

2. *Comment:* Two States commented on Section III D. (5). One State while recognizing that the States do not have the regulatory authority to direct or recommend licensees to take or not take an action, noted that State governments are not precluded from making recommendations and suggestions to the licensee in the interest of consequence mitigation protection action recommendations, and other issues of great interest to the State. Another State commented that they believed that NRC intends that State authorities not make technical recommendations with regard to plant recovery from an accident, but did not intend to restrict the ability of a State to coordinate activities with utility responders during nuclear emergencies to effect the maximum use of limited resources.

Response: While the State does have an interest in the areas of consequence mitigation and protection action mitigation, entering into a MOU with the NRC to receive ERDS data does not confer upon the State the ability to direct the licensee to take any action. The NRC agrees with the second comment concerning the section of the MOU.

3. *Comment:* It is possible that a State may require more than one ERDS terminal, located at different facilities at different times during a response to a nuclear accident.

Response: There is no limit to the number of ERDS terminals that a State may install. The only limit is that only one terminal per State may access ERDS

at any one time. This limitation is a hardware limitation based on the number communication ports available for State access on the ERDS computers.

4. *Comment:* One State commented that they looked at ERDS to correct widespread and long standing difficulties in acquiring information on plant parameters in the early stages of exercises and accidents. If through the MOU, the State were required to surrender a right to all voice communications with the licensee related to ERDS, and be required to converse with the utility only through NRC Liaison or the Region or Headquarters, they would be entertaining errors and delays.

Response: This provision was placed in the MOU to mitigate a potential adverse impact on licensee accident response due to ERDS data transfer. ERDS is an NRC system, therefore, it is appropriate that NRC bear the burden of responding to questions about ERDS data. Note that the restriction on the State is against questioning plant operators about ERDS data. This does not preclude the normal discussion of plant conditions with emergency response personnel when the licensee emergency response facilities are activated. Another State noted that one of the strengths of the MOU as written was that it does an excellent job of preventing State personnel from distracting the plant operator in his duties to recover from the emergency.

5. *Comment:* One State commented that the State already has access to plant data at the licensee's emergency response facilities and the access to data by personnel outside the emergency response facilities would not contribute to the State's emergency response because the officials with the technical expertise to properly analyze the ERDS data will be at the licensee's emergency response facilities. This could potentially result in a conflict between the assessment of the plant conditions between the on-site State officials and those with access to ERDS data.

Response: ERDS data transfer is intended to be used at States that request it to provide plant parameter data to State Incident Response Centers at which event assessment is conducted. This process takes place at various places depending on the State in question. It is not recommended that States subscribe to ERDS just for the purpose of having it. The ERDS may be of value at the location where the State government conducts its assessment of reactor conditions. It is this occurs at the licensee's emergency response facilities,

ERDS would be of little value because plant data is readily available.

6. *Comment:* One State commented that since ERDS includes radiological and meteorological data, the system would also be very beneficial to those States responsible for ingestion pathway protection actions and recommended that ERDS be made available to all States in the 50-mile ingestion pathway EPZ.

Response: While there is data available on ERDS which could possibly be of use to States within the 50-mile EPZ, as noted earlier, system constraints require that the numbers of users on the system be limited to preclude excessive demand for communication ports on the computer. Because access to the system is by dial up telephone line, access is necessarily first come first served. The decision to limit ERDS data to the States within the ten-mile EPZ was based on the immediacy of the need for data to those responsible for protective actions close in during an emergency.

It is recognized that there is a need for event consequence data in the ingestion pathway EPZ, however, there is sufficient time to allow the use of other methods of data transfer for this purpose.

7. *Comment:* One State noted that since emergencies require prompt significant interaction with the public, it is unclear what is intended by the section VI.C restrictions against premature public release of sensitive information.

Response: It is important to note that while ERDS represents a significant increase in the information available to Federal and State authorities during an accident, it does not augment the quality or quantity of information available to the licensee at the site. ERDS presents one of many information paths throughout the plant. The data presented is directly transmitted from the licensee computer to the NRC computer, and therefore, has not been analyzed or verified. It is important that ERDS data and assessments based on ERDS dated not be directly transmitted to the public or the media until it has been properly verified. Again, the responsibilities of the various parties involved in an emergency at a nuclear power plant are not intended to be changed based on the existence of ERDS. The licensee still bears the primary responsibility for accident and mitigation.

This attached MOU is intended to formalize and define the manner in which the NRC will cooperate with the State of Washington to provide data related to plant conditions during

emergencies at commercial nuclear power plants in Washington.

Dated at Rockville, Maryland, this 15th day of April, 1992.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

Agreement Pertaining to the Emergency Response Data System Between the State of Washington and the U.S. Nuclear Regulatory Commission

I. Authority

The U.S. Nuclear Regulatory Commission (NRC) and the State of Washington enter into this Agreement under the authority of section 274i of the Atomic Energy Act of 1954, as amended.

Washington recognizes the Federal Government, primarily the NRC, as having the exclusive authority and responsibility to regulate the radiological and national security aspects of the construction and operation of nuclear production or utilization facilities, except for certain authority over air emissions granted to States by the Clean Air Act.

II. Background

A. The Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, authorize the Nuclear Regulatory Commission (NRC) to license and regulate, among other activities, the manufacture, construction, and operation of utilization facilities (nuclear power plants) in order to assure common defense and security and to protect the public health and safety. Under these statutes, the NRC is the responsible agency regulating nuclear power plant safety.

B. NRC believes that its mission to protect the public health and safety can be served by a policy of cooperation with State governments and has formally adopted a policy statement on "Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities" (54 FR 7530, February 22, 1989). The policy statement provides that NRC will consider State proposals to enter into instruments of cooperation for certain programs when these programs have provisions to ensure close cooperation with NRC. This agreement is intended to be consistent with, and implement the provisions of the NRC's policy statement.

C. NRC fulfills its statutory mandate to regulate nuclear power plant safety by, among other things, responding to emergencies at licensee's facilities, monitoring the status and adequacy of the licensee's responses to emergency situations.

D. Washington fulfills its statutory mandate to provide for preparedness, response, mitigation, and recovery in the event of an accident at a nuclear power plant through the Division of Radiation Protection, Department of Health as described in the Washington State Comprehensive Emergency Management Plan.

III. Scope

A. This Agreement defines the way in which NRC and Washington will cooperate in

planning and maintaining the capability to transfer reactor plant data via the Emergency Response Data System during emergencies at nuclear power plants.

B. It is understood by the NRC and the State of Washington that ERDS data will only be transmitted by a licensee during emergencies classified at the Alert level or above, during scheduled tests, or during exercises when available.

C. Nothing in this Agreement is intended to restrict or expand the statutory authority of NRC, the State of Washington, or to affect or otherwise alter the terms of any agreement in effect under the authority of Section 274b of the Atomic Energy Act of 1954, as amended; nor is anything in this Agreement intended to restrict or expand the authority of the State of Washington on matters not within the scope of this Agreement.

D. Nothing in this Agreement confers upon the State of Washington authority to (1) interpret or modify NRC regulations and NRC requirements imposed on the licensee; (2) take enforcement actions; (3) issue confirmatory letters; (4) amend, modify, or revoke a license issued by NRC; or (5) direct or recommend nuclear power plant employees to take or not to take any action. Authority for all such actions is reserved exclusively to the NRC.

IV. NRC's General Responsibilities

Under this agreement, NRC is responsible for maintaining the Emergency Response Data System (ERDS). ERDS is a system designed to receive, store, and retransmit data from in-plant data systems at nuclear power plants during emergencies. The NRC will provide user access to ERDS data to one user terminal for the State of Washington during emergencies at nuclear power plants which have implemented an ERDS interface and for which any portion of the plant's 10 mile Emergency Planning Zone (EPZ) lies within the State of Washington. The NRC will provide any software which is not commercially available and is necessary for configuring an ERDS workstation.

V. Washington's General Responsibilities

A. Washington will, in cooperation with the NRC, establish a capability to receive ERDS data. To this end, Washington will provide the necessary computer hardware and commercially licensed software required for ERDS data transfer to users.

B. Washington agrees not to use ERDS to access data from nuclear power plants for which a portion of the 10 mile Emergency Planning Zone does not fall within its State boundary.

C. For the purpose of minimizing the impact on plant operators, clarification of ERDS data will be pursued through the utility provided technical liaison personnel or the NRC.

VI. Implementation

Washington and the NRC agree to work in concert to assure that the following communications and information exchange protocol regarding the NRC ERDS are followed.

A. Washington and the NRC agree in good faith to make available to each other information within the intent and scope of this Agreement.

B. NRC and Washington agree to meet as necessary to exchange information on matters of common concern pertinent to this Agreement. Unless otherwise agreed, such meetings will be held in the NRC Operations Center. The affected utilities will be kept informed of pertinent information covered by this Agreement.

C. To preclude the premature public release of sensitive information, NRC and Washington will protect sensitive information to the extent permitted by the Federal Freedom of Information Act, the State Freedom of Information Act, 10 CFR 2.790, and other applicable authority.

D. NRC will conduct periodic tests of licensee ERDS data links. A copy of the test schedule will be provided to Washington by the NRC. Washington may test its ability to access ERDS data during these scheduled tests, or may schedule independent tests of the State link with the NRC.

E. NRC will provide access to ERDS for emergency exercises with reactor units capable of transmitting exercise data to ERDS. For exercises in which the NRC is not participating, Washington will coordinate with NRC in advance to ensure ERDS availability. NRC reserves the right to preempt ERDS use for any exercise in progress in the event of an actual event at any licensed nuclear power plant.

VII. Contacts

A. The principal senior management contacts for this Agreement will be the Director, Division of Operational Assessment, Office for Analysis and Evaluation of Operational Data, and the Director, Division of Radiation Protection, Washington State Department of Health. These individuals may designate appropriate staff representatives for the purpose of administering this Agreement.

B. Identification of these contacts is not intended to restrict the communication between NRC and Washington staff members on technical and other day-to-day activities.

VIII. Resolution of Disagreements

A. If disagreements arise about the matters within the scope of this Agreement, NRC and Washington will work together to resolve these differences.

B. Resolution of differences between the State and NRC staff over issues arising out of this Agreement will be the initial responsibility of the NRC Division of Operational Assessment management.

C. Differences which cannot be resolved in accordance with Sections VIII.A and VIII.B will be reviewed and resolved by the Director, Office for Analysis and Evaluation of Operational Data.

D. The NRC's General Counsel has the final authority to provide legal interpretation of the Commission's regulations.

IX. Effective Date

This Agreement will take effect after it has been signed by both parties.

X. Duration

A formal review, not less than 1 year after the effective date, will be performed by the NRC to evaluate implementation of the

Agreement and resolve any problems identified. This Agreement will be subject to periodic reviews and may be amended or modified upon written agreement by both parties, and may be terminated upon 30 days written notice by either party.

XI. Separability

If any provision(s) of this Agreement, or the application of any provision(s) to any person or circumstances is held invalid, the remainder of this Agreement and the application of such provisions to other persons or circumstances will not be affected.

Dated: March 3, 1992.

For the U.S. Nuclear Regulatory Commission.

James M. Taylor.

Executive Director for Operations.

Dated: March 23, 1992.

For the State of Washington.

T.R. Strong.

Director, Division of Radiation Protection.

[FR Doc. 92-9832 Filed 4-29-92; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

- (1) *Collection title:* Supplement to Claim of Person Outside the United States.
- (2) *Form(s) submitted:* G-45.
- (3) *OMB Number:* 3220-0155.
- (4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.
- (5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.
- (6) *Frequency of response:* On occasion, Semi-annually.
- (7) *Respondents:* Individuals or households.
- (8) *Estimated annual number of respondents:* 100.
- (9) *Total annual responses:* 100.
- (10) *Average time per response:* 17 hours.
- (11) *Total annual reporting hours:* 17.
- (12) *Collection description:* Under Public Law 98-21, railroad retirement beneficiaries' Tier I, or overall minimum portion of an annuity and Medicare

benefits payable under the Railroad Retirement Act may be withheld effective January 1, 1985. The collection obtains the information needed by the Railroad Retirement Board to implement the benefit withholding provisions of Public Law 98-21.

Additional Information or Comments

Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312-751-4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,
Clearance Officer.

[FR Doc. 92-10086 Filed 4-29-92; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30625; File No. SR-DTC-92-06]

Self-Regulatory Organizations; Depository Trust Company; Filing and Immediate Effectiveness of Proposed Rule Change Relating to Operational Arrangements

April 23, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice hereby is given that on March 12, 1992, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-DTC-92-06) as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization ("SRO"). The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons.

I. SRO's Statement of the Terms of Substance of the Proposed Rule Change

DTC's proposed rule change sets out DTC's operational arrangements that are necessary for securities issues to be eligible for certain DTC services, including Same Day Funds Settlement ("SDFS") and Next-Day Funds Settlement systems. The proposal²

¹ 15 U.S.C. 78s(b)(1) (1988).

² The proposed rule change is in the form of a Memorandum titled Operational Arrangements

updates an August 1988 memorandum regarding DTC's operational arrangements for issue eligibility for DTC services.³

The proposed rules change adds the following updates: (1) An expanded discussion concerning securities with put features and a discussion on convertible issues and warrants; (2) a statement that a preprinted letter of representation must be submitted for any book-entry only issue to be considered for eligibility; (3) a statement that prior to qualifying for eligibility in SDFS, an issue must have a ready source available for its market value if vendor market values are unavailable to DTC;⁴ and (4) a statement that DTC must receive dividend and interest payment information for corporate equity or debt issues, either through a standard announcement service to which DTC subscribes or directly from the issuer or its agent before the dividend or interest record date.⁵ DTC states that except for these updates, the operating arrangements remain virtually unchanged from the 1988 operating memorandum.⁶

II. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to inform participants, underwriters, agents, trustees, bond counsel, and others of what is necessary to make new issues eligible for DTC services. DTC expects its participants and others to consider the operational arrangements when they structure, distribute, and administer new issues.

DTC believes that the proposed rule change is consistent with the requirements of sections 17A(b)(3)(A) and (F) of the Act⁷ in that it promotes

Necessary for an Issue to Become Eligible for DTC Services ("Operational Arrangements"), from the DTC Underwriting Department to Participants, Underwriters, Agents, Trustees, Bond Counsel, and Others Affected, dated February 27, 1991.

³ Securities Exchange Act Release No. 25948 (August 3, 1988), 53 FR 29292 [Filed No. SR-DTC-88-13]. For the original version of the memorandum, see Securities Exchange Act Release No. 24818 (August 24, 1987), 52 FR 31833 [File No. SR-DTC-87-10].

⁴ This statement concerning availability of market values is being re-emphasized, but it is not a new concept to DTC, having been noticed previously in 1987 in Securities Exchange Act Release No. 24818. *Supra*, note 3.

⁵ Letter from Richard B. Nesson, General Counsel, DTC, to Ester Saverson, Jr., Branch Chief, Division of Market Regulation, Commission, dated March 20, 1992.

⁶ *Id.*

⁷ 15 U.S.C. 78q-1(b)(3)(A) and (F) (1988).

the maximization of the number of securities that DTC can make depository-eligible consistent with maintaining orderly securities processing and permitting the timely payment of dividend, interest, and principal.

B. SRO's Statement on Burden on Competition

DTC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

C. SRO's Statement on Comments on the Proposed Rule Change Received from Members, Participants, and Others

DTC has received no comments on the proposed rule change.

III. Proposal's Effectiveness and Solicitation of Comments

The rule change has become effective pursuant to section 19(b)(3)(A)(i) of the Act⁶ and subparagraph (e) of Securities Exchange Act Rule 19b-4⁷ because the proposed rule change effects a change in an existing service of DTC that does not adversely affect the safeguarding of securities or funds in the custody or control of DTC or for which it is responsible and does not significantly affect the respective rights or obligations of DTC or its participants. The proposed rule change merely updates operational enhancements that already have received Commission approval. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the purposes of the Act.

Interested persons may submit written comments within 21 days after notice is published in the *Federal Register*. Six copies of such comments should be filed with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, with accompanying exhibits, and all written comments, except for material that may be withheld from the public under 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing also will be available for inspection and copying at the principal offices of the DTC. All submissions should refer to File No. SR-DTC-92-06 and should be submitted by May 21, 1992.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 92-10038 Filed 4-29-92; 8:45am]

BILLING CODE 8010-01-M

[Release No. 34-30629; File No. SR-NASD-91-39]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Release of Certain Information Regarding Disciplinary History of Members and Their Associated Persons Via Toll-Free Telephone Listing

April 23, 1992.

I. Introduction

The National Association of Securities Dealers, Inc. ("NASD") submitted on August 12, 1991, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4² thereunder to amend the Resolution of the Board of Governors concerning "Notice to Membership and Press of Suspensions, Expulsions, Revocations and Monetary Sanctions," ("Resolution") at article V, section 1 of the NASD Rules of Fair Practice. The proposal adds language to the effect that the NASD may release certain information contained in the Central Registration Depository ("CRD") System³ about the employment and disciplinary history of its members and their associated persons in response to telephone inquiries from the general public via a toll-free telephone listing. As proposed, this disclosure system will be named the 800 Number Service Plan ("Plan").

Notice of the proposed rule change together with the terms of substance of the proposal and amendments No. 1 and 2 thereto, was provided by the issuance of a Commission release (Securities Exchange Act Release No. 30080, December 13, 1992 and by publication in

¹⁰ 17 CFR 200.30(a)(12) (1991).

¹⁵ U.S.C. 78s(b)(1) (1988).

¹⁷ CFR 240.19b-4 (1991).

³ The CRD is a computerized data processing system operated as a joint venture by the NASD and the North American Securities Administrators Association. This system maintains registration information concerning NASD member firms and their registered personnel for access by state regulators, certain self-regulatory organizations ("SROs"), and the Commission. The CRD also contains information about regulatory and enforcement actions taken against broker-dealers and their registered personnel by these regulatory authorities.

the *Federal Register* (56 FR 66113, December 20, 1991).

The proposed rule change implements the provision of section 15A(i) of the Act which was enacted by Congress in October 1990 as part of the Securities Enforcement Remedies and Penny Stock Reform Act.⁴ This legislation mandated that the Association establish and maintain, within one year of its enactment, a toll-free telephone listing to receive inquiries regarding actions involving its members and their associated persons and promptly respond to such inquiries in writing.

II. Description of the NASD's 800 Number Service Plan

Pursuant to the proposed rule change, the NASD will operate the Plan from 9 a.m. to 5 p.m. eastern time. During its hours of operation the NASD will respond to telephone inquiries from the general public about the employment and disciplinary history of its members and their associated persons. Investors will have access to a comprehensive body of information contained in the CRD System. Specifically, the NASD will report final disciplinary actions taken by federal or state securities agencies or self-regulatory organizations which relate to securities or commodities transactions and criminal convictions reported on Form BD or Form U-4. The NASD also interprets final disciplinary actions to include civil injunctive orders entered as a result of actions initiated by federal or state regulatory authorities. Thus, investors will have access to this information as well.

Calls received on the 800 number will be sorted by whether the caller is a commercial requestor or an individual requestor. Commercial requestors will be charged a \$30 fee for each request made. However, no fee will be imposed on requests by individual investors. Once the NASD operator has identified the broker-dealer or associated person who is the subject of the request, the caller will be advised if the broker-dealer or associated person has any disclosable disciplinary history. If there is no disclosable history, the caller will be so advised and will be given the option of receiving a written response from the NASD to that effect. If there is disclosable history, the caller will be so advised; however, the details of such history will not be provided over the telephone. The caller will receive a written response which describes the particular events involved.

⁴ Public Law No. 101-429, October 15, 1990, 104 Stat. 931.

⁶ U.S.C. 78s(b)(3)(A)(i) (1988).

⁷ 17 CFR 240.19b-4(e) (1991).

III. Summary of Comments and Amendment No. 3

The Commission received three comment letters in response to its notice of the filing. The NASD has filed with the Commission Amendment No. 3 which responds to the issues raised during the comment period for the proposal.⁵ To summarize the views expressed, one commenter contended that the NASD should revise the definition of disciplinary actions contained in the proposed rule change and that the NASD should increase the number of categories for the information disclosed to ensure that information disclosed is not presented in a misleading manner.⁶ Amendment No. 3 to the instant filing, in the Commission's opinion, satisfactorily responds to the concerns raised by this commenter. In Amendment No. 3, the NASD stated that it is unable to categorize or otherwise characterize the information in the CRD system as the commenter has requested, under the operating rules of the CRD system. Those rules require the NASD to record information as it is provided by state participants; if a state categorizes an action as disciplinary or regulatory action, the determination is reflected in the CRD system. It is in the purview of each state to determine how it categorizes its own disciplinary or regulatory actions; the NASD is not in a position to countermand such a determination by a particular state. Given these facts, the Commission believes the NASD is acting in good faith in releasing information as it appears in the CRD system, without further characterization of the information prior to public disclosure.

The Commission received a comment letter from the Securities Industry Association ("SIA") which had knowledge of the operating rules of the CRD system and the NASD's inability to expunge information from the system. In light of this knowledge, this commenter suggested that the rules be reevaluated to eliminate the reporting of criminal convictions unless they are related to securities and commodities transactions and to require the removal of information after a designated period of time, ten years for example, to prevent

stale or dated information from being disseminated.⁷

The Commission has considered the SIA's suggestions; however, the Commission does not believe the CRD system needs to be altered for the purposes of the proposed rule change. On the contrary, the Commission supports the decision to require that criminal convictions other than those which are securities and commodities related be reported to the CRD system.⁸ Both investment and non-investment related misdemeanors and felonies are reported on Forms BD and U-4. This information is considered by the Commission and the NASD when determining an applicant's fitness for securities registration. Similarly, the Commission believes the criminal information reported in the CRD system and released pursuant to the NASD's 800 number will also be useful information to an investor evaluating a broker-dealer or associated person.

The Commission sees no justification for limiting the amount of information about criminal convictions that would be provided to investors pursuant to the 800 number service, particularly in light of the recent statutory changes which expanded the information reported on forms BD and U-4 to include criminal convictions by foreign jurisdictions as well.⁹ Finally, with respect to the SIA's comments, the Commission believes the prohibition on removal of information from the system fosters the integrity of the system inasmuch as the policy enables the system to depict a complete history of the broker-dealer or associated person in question.

In its notice of the proposed rule change, the Commission specifically requested comment on whether it was appropriate, as proposed, for broker-dealers or associated persons who are the subject of a request and their employer-members to receive notice that an investor has made an inquiry, and further for those persons to be provided with the name, address and telephone number of the investor requesting the disciplinary history. In the notice of the proposal, the NASD took the position that this disclosure would be appropriate under the

circumstances because it would provide the associated person or broker-dealer the opportunity to explain or address the disciplinary actions or convictions which are disclosed to the person submitting the request.

One comment letter received by the Commission expressed concerns about the effect of disclosing the requestor's identity. While the commenter was generally supportive of the proposed rule change, the commenter believed that the failure to provide anonymity to individuals requesting disciplinary information would possibly cause investors to forego making requests in favor of maintaining their privacy.¹⁰ In sum, this commenter contended that this disclosure would have a chilling effect on the usefulness of the toll-free line.

In view of the concerns raised about this disclosure policy, the NASD has by the terms of Amendment No. 3 amended the filing to reflect the fact that the identity of a person making an information request will not be disclosed to broker-dealers or associated persons about whom requests are made, or their employer-members. Upon further study of this issue, the NASD has determined that such disclosure may indeed have a chilling effect on investor inquiries.

In response to Amendment No. 3 to the filing, the SIA, in its comment letter, stated that it emphatically disagreed with the NASD's decision to eliminate the proposal's provision which would provide for notification to be sent to broker-dealers and associated persons, and their employer members of the identity of a person making an information request. The SIA believed that such an amendment was not justified absent statistical evidence to establish the validity of a chilling effect.¹¹

In responding to the SIA's comments, the Commission would note that the NASD, in an effort to allay concerns raised by the Commission about the disclosure of the requestor's identity, informally monitored calls received on the 800 number to determine if an amendment was appropriate. The NASD tracked the number of callers who determined to forego their information

⁵ See letter to Jonathan G. Katz, Secretary, SEC from the Securities Industry Association, dated March 4, 1992.

⁶ Among the criminal convictions reported on Forms BD and U-4 which may stem from non-investment related activities are bribery, forgery, counterfeiting and extortion.

⁷ The International Securities Enforcement Cooperation Act of 1990 amended section 15(b)(4) of the Act, 15 U.S.C. 78o(b)(4) to add foreign offenses substantially equivalent to domestic criminal offenses enumerated in that section.

¹⁰ See letter to Jonathan G. Katz, Secretary, SEC from Robert M. Lam, Chairman, Pennsylvania Securities Commission, dated January 27, 1992. This commenter noted that his agency had received inquiries from several individuals who were familiar with the NASD's policy on disclosure and therefore sought disciplinary information about NASD members through the Pennsylvania Securities Commission rather than the NASD in order to maintain their anonymity.

¹¹ See SIA comment letter, *supra* note 7.

⁸ See letter from Craig Landauer, Assistant General Counsel, NASD to Katherine England, Branch Chief, Division of Market Regulation, SEC, dated February 6, 1992.

⁹ See letter to Katherine England, Branch Chief, Division of Market Regulation, SEC from Graubard, Mollen, Horowitz Pomeranz and Shapiro, dated January 17, 1992.

requests once they were informed that their identities would be made known.¹² The NASD believes and the Commission agrees that this survey establishes the validity of a chilling effect and warrants amending the filing to address this matter. Finally, on this issue, the Commission believes Amendment No. 3 was necessary to preserve the spirit of Section 15A(i) in implementing the 800 number because the Congressional goals embodied in that section of the Act are significantly diminished if investors are reluctant to avail themselves of the service because of privacy concerns.

Additionally, the Commission requested comments regarding the proposed chorus of operation of the 800 number. The NASD intends to operate the Plan from 9 a.m. to 5 p.m. eastern time. The Commission solicited comment as to whether or not these hours were appropriate or needed to be modified for West Coast users. No comments were received addressing this matter. However, having raised this issue with the NASD, the NASD has also by the terms of Amendment No. 3 undertaken to closely monitor the number of after hours requests for information to determine if the system's operating hours should be modified to handle those requests.

IV. Conclusion

Having considered the proposed rule change, the Commission believes implementation of the NASD's 800 number will further the goals of the Act inasmuch as the Plan permits members of the public to have access to information that will help them to determine whether or not to conduct, or continue to conduct business with an NASD member or any of the member's associated persons. The Commission is of the opinion that the implementation of the Plan will provide to be a valuable tool for individual investors to protect themselves against securities fraud. An informed investor, the Commission believes, is less likely to fall victim to fraud and abuse. Given access to this service, an investor who suspects that he has been approached about a fraudulent or abusive securities telemarketing scheme or has an experience which otherwise raises suspicions will be equipped to conduct a background check on the firm or professional in question.

¹² See letter to Katherine England, Branch Chief, Division of Market Regulation, SEC from Craig Landauer, Assistant General Counsel, NASD, dated March 18, 1992. The NASD monitored calls received from October through December of 1991. Once informed that their identities would be released, 36% of the callers failed to pursue their information requests.

While the Commission, state securities regulators, and self-regulatory organizations such as the NASD in the instant filing, continue efforts to protect investors from unscrupulous market participants and abusive practices, the Commission believes that investors will welcome and take full advantage of the opportunity to protect themselves as well by utilizing this service. Implementation of the Plan reflects ongoing efforts to both securities and futures market regulators to increase the flow of information to individual investors and ultimately strengthen investor protection.

For the reasons discussed above, the Commission believes the proposed rule change is consistent with the NASD's mandate under section 15A(i) of the Act, as amended. Further, the Commission finds that the proposed rule change is consistent with section 15A(b)(6) under the Act, which provides in pertinent part that the rules of a national securities association shall be designed to promote just and equitable principles of trade and to protect investors and the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz,
Secretary.

[FR Doc. 92-10037 Filed 4-29-92; 8:45 am]
BILLING CODE 8010-01-M

THE PRESIDENTIAL COMMISSION ON THE ASSIGNMENT OF WOMEN IN THE ARMED FORCES

Meeting

SUMMARY: The research and analysis staff will present in detail the methodology to be used when researching women in the Armed Forces. Additionally, time is allotted each day of hearings to the commissions four fact-finding panels who meet to discuss: Foreign Military and Domestic Law Enforcement Agency Experience; Equipment Facilities, Accommodations; The Conscription Environment, and the Effects of Changes in Combat Exclusion Restrictions on Career Opportunities, Recruitment, Retention.

DATES: Monday May 4, Tuesday May 5, & Wednesday May 6, 8 a.m. to 6 p.m.

ADDRESSES: Washington Marriott, 1221 22d St., NW., Salons D&E, West End Ballroom, Washington, DC 20037, (202) 872-1500.

STATUS: Open.

Contact person for more information: Kevin K. Kirk (202) 624-5916 for further details.

W.S. Orr,
Staff Director.

[FR Doc. 10046 Filed 4-29-92; 8:45 am]

BILLING CODE 6820-CD-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. PDA-4 (F)]

Oregon Department of Energy Application for Preemption Determination Concerning State of Washington Restrictions Regarding Highway Routing of Radioactive Materials

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Public notice and invitation to comment.

SUMMARY: The Oregon Department of Energy has applied for an administrative determination as to whether certain requirements of the State of Washington concerning the transportation of radioactive materials are preempted by the Hazardous Materials Transportation Act (HMTA).

DATES: Comments received on or before June 15, 1992 and rebuttal comments received on or before July 29, 1992, will be considered by the FHWA before an administrative ruling is issued. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period.

ADDRESSES: The application and any comments received may be reviewed in the Dockets Unit, Federal Highway Administration, room 4232, HCC-10, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590-0001. Comments and rebuttal comments on the application shall be submitted to the Dockets Unit at the above address and include the Docket Number [PDA-4(F)]. Also, a copy of each comment and rebuttal comment shall be sent to Ms. Christine A. Ervin, Director, Oregon Department of Energy, 625 Marion Street, NE., Salem, Oregon 97310, and to Mr. George B. Tellevik, Chief, Washington State Patrol, General Administration Building, AX-12, Olympia, Washington, 98504-0612. A certification that a copy has been sent to each person listed above shall be included with the comment. (The following format is suggested: "I hereby certify that copies of this comment have

been sent to Ms. Ervin and Mr. Tellevik at the addresses specified in the Federal Register.")

FOR FURTHER INFORMATION CONTACT:

Jerry W. Emerson, Traffic Control Division (HHS-32) Office of Highway Safety, 202-366-2218; or Raymond Cuprill or Eric Kuwana, Office of Chief Counsel (HCC-20) 202-366-0834; Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Background

Section 112(a) of the Hazardous Materials Transportation Act (HMTA), 49 U.S.C. App. 1801 *et seq.*, as amended by the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), Public Law 101-615, provides the general preemption standards applicable to hazardous materials highway routing designations. The Secretary of Transportation delegated authority to issue preemption determinations concerning highway routing issues to the FHWA. See 56 FR 31343 (July 10, 1991). As required by the HMTUSA amendments, the FHWA will promulgate Federal routing standards and procedures governing the issuance of related preemption determinations and waivers of preemption.

For purposes of this notice, any preemption determination made by the FHWA will be issued pursuant to the general preemption authority granted by section 112(a) of the HMTA. Section 112(a) of the HMTA provides that State, political subdivision and Indian tribe requirements are preempted if—

- (1) Compliance with both the State or political subdivision or Indian Tribe requirement and any requirement of [the HMTA] or of a regulation issued under [the HMTA] is not possible, or
- (2) The State or political subdivision or Indian tribe requirement as applied or enforced creates an obstacle to the accomplishment and execution of [the HMTA] or the regulations issued under [the HMTA] * * *.

Section 112(c) of the HMTA provides for issuance of binding preemption determinations by the Secretary of Transportation. Any directly affected person may apply for a determination regarding whether a State, political subdivision or Indian tribe requirement is preempted by the HMTA. Notice of the application must be published in the Federal Register, and the applicant is precluded from seeking judicial relief on that issue for 180 days after the application or until the preemption determination is issued, whichever occurs first. A party to a preemption

determination proceeding may seek judicial review of the determination in U.S. district court within 60 days after the determination becomes final.

Preemption determinations do not address issues of preemption arising under the Commerce Clause of the Constitution or under statutes other than the HMTA unless it is necessary to do so in order to determine whether a requirement is "otherwise authorized by Federal law." A State, local jurisdiction or Indian tribe requirement is not "otherwise authorized by Federal law" merely because it is not preempted by another Federal statute. *Colorado Pub. Utilities Comm'n v. Harmon*, No. 89-1288 (10th Cir. Dec. 18, 1991), *reversing* No. 88-Z-1524 (D. Colo. 1989).

In issuing preemption determinations under the HMTA, the FHWA will be guided by the principles enunciated in Executive Order No. 12,612 entitled "Federalism" (52 FR 41685, Oct. 30, 1987). Section 4(a) of that Executive Order authorizes preemption of State laws only when the statute contains an express preemption provision, there is other firm and palpable evidence of Congressional intent to preempt, or the exercise of State authority directly conflicts with the exercise of Federal authority. The HMTA contains several express preemption provisions.

The Application for a Preemption Determination

On December 24, 1991, the Oregon Department of Energy submitted the following application for a preemption determination. The attachments submitted with and referenced in the application letter which is published herein, are not published in this notice but are available in the FHWA's public Docket Number [PDA-4(F)]. The attachments included a routing map; the State of Washington Administrative Code (WAC), Chapter 446-50; and the State of Washington Revised Code of Washington (RCW) 46.48.

December 24, 1991.

Allan Roberts,

Associate Administrator for Hazardous Material Safety, Attention: Hazardous Materials Preemption Docket, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001.

Subject: Washington State Restrictions Which Prohibit Radioactive Waste Material From Using Preferred Routes on Interstate System Highways.

This is an application for you to determine if certain requirements of the State of Washington are preempted under the provisions of the Hazardous Material Uniform Safety Act of 1990, and regulations issued thereunder.

This application is submitted to you according to the preemption determination procedures found in 49 CFR Sections 107.201 to 107.209. We understand that the Federal Highway Administration will eventually exercise authority to determine preemption with respect to highway routing of radioactive materials. This application is submitted to you because the Highway Administration has yet to promulgate procedures or standards for such decisions. We hope for a prompt decision, and ask that you work with the Highway Administration to issue a decision.

Overview

Washington administrative rules limit ports of entry for trucks hauling radioactive wastes into Washington. The rules prohibit truck access to a route which Oregon believes is a "preferred route" under 49 CFR 177.825(b), and which would reduce radiological and overall accident risk. The purpose of the restriction appears to be to route radioactive waste shipments to facilities where the Washington State Patrol can assure the shipments are inspected.

The Oregon Department of Energy requests a determination of preemption of the Washington State laws to the extent, and only to the extent, that the laws prohibit access for shipments from Oregon to preferred routes in Washington. Oregon recognizes Washington's intent to inspect shipments before travel in their state. Oregon is willing to cooperate with Washington State safety officials to assure shipments are inspected.

Text of the Washington Requirement for Which This Determination Is Sought

Washington Administrative Code (WAC), Chapter 446-50 states:

"WAC 446-50-040 Procedure upon entering the state. Effective October 10, 1979 all carriers of radioactive waste materials entering the State of Washington shall be required to enter the state through one of only two allowable ports of entry. These ports of entry are located on Interstate 90 approximately one-half mile west of the Idaho state line, in Spokane County, and on Washington State Sign Route 14 approximately one mile north of the Oregon state line, in Benton County. [Statutory Authority: RCW 46.48.190; 80-01-009 [Order 79-4], Section 446-50-040, filed 12/11/79.]"

Attached is a copy of other sections of Chapter 446-50 that help explain the purpose of this requirement.

The Revised Code of Washington (RCW) 46.48, establishes this statutory requirement: "Any additional port of entry for highway transportation of radioactive waste materials other than those designated by WAC 446-50-040 as filed on December 11, 1979, must be authorized by the state legislature. This section shall expire when both the Washington state legislature and at least one other eligible state enact an interstate agreement on radioactive material management."

A copy of RCW 46.48 and related laws are also attached.

Requirements of the Act and the Regulations Issued Under the Act for Which Oregon Seeks This Requirement To Be Compared

49 App. U.S.C. 1811(a) and the parallel requirements of 49 CFR 107.202(b) establish that a State requirement is preempted if:

(1) Compliance with both the state requirement and any requirement of the Act or regulations issued under the Act is not possible.

(2) The State requirement as applied or enforced creates an obstacle to the accomplishment and execution of the Act or the regulations issued under the Act.

Oregon seeks a determination of preemption of the Washington restriction as a prohibition of transport, that affects route selection. Oregon seeks to have the Washington routing requirements compared to 49 CFR 177.825, the federal rules for selecting routes for radioactive material.

A motor carrier of radioactive material cannot comply with both WAC 446-50-040 and 49 CFR 177.825. WAC 446-50-040 also establishes an obstacle to compliance with the intent and requirements of the federal routing rule.

How the State of Oregon is Affected by the Washington Port of Entry Requirements

The Washington port of entry restrictions are essentially a route designation. They prohibit use of the preferred routes, which are in Washington, and shift the shipments to routes in Oregon.

Applicable Facts

Radioactive waste materials are transported by truck from the Trojan Nuclear Power Plant, near Rainier, Oregon. There are two practicable routes from Trojan to the disposal site at Hanford, Washington:

North on US Route 30, to truck routes through Longview, Washington, to Interstate 5, to Interstate 205, and thence east on Interstate 84. (The "I-5/I-205 Route").

South on US Route 30, to Interstate-405, and thence east on Interstate 84. (The "US 30 Route").

RCW 46.48 and WAC 446-50-040 prohibit carriers of radioactive material from using the I-5/I-205 route. A summary map is attached.

For Highway Route Controlled Quantity Shipments

1. Preferred Routes

49 CFR 177.825(b) governs shipments of route controlled quantities of radioactive materials. It provides in the relevant part:

"[Preferred routes] must be selected by the carrier or that person operating a motor vehicle containing a highway route controlled quantity of radioactive materials to reduce time in transit over the preferred route segment of the trip. An Interstate System bypass or Interstate System beltway around a city, when available, shall be used in place of a preferred route through a city, unless a State routing agency has designated an alternative route."

"(1) A preferred route is either or both an Interstate System highway for which an alternative route is not designated by a State routing agency as provided in this section, or a State-designated route selected by a State

routing agency * * * in accordance with the [listed] conditions * * *"

The conditions for a state designated alternative route are discussed below.

49 CFR 177.825(b)(2)(ii) governs routes for pickup and delivery of highway route controlled quantity shipments. It provides:

"For pickup and delivery not over preferred routes, the route selected must be the shortest-distance route from the pickup location to the nearest preferred route entry location, and the shortest-distance route to the delivery location from the nearest preferred route exit location. Deviation from the shortest-distance pickup or delivery route is authorized if such deviation:"

"(A) Is based upon the radiological risk minimization criteria of paragraph (a) of this section; and"

"(B) Does not exceed the shortest-distance pickup or delivery route by more than 25 miles and does not exceed 5 times the length of the shortest-distance pickup or delivery route."

These provisions require that route controlled quantity shipments use Interstate System highways that reduce time in transit, use beltways around cities, and use the shortest distance route from the pickup location to the nearest preferred route entry location. The I-5/I-205 route, not the US 30 route, meets these requirements. The I-5/I-205 route increases the overall miles of the trip that are on Interstate System highways. It is approximately 11.83 miles from Trojan to I-5 via the I-5/I-205 route described above. In contrast, it is approximately 40.82 miles from Trojan to I-405 on the US 30 route that has been mandated. It is approximately 29 miles closer to an Interstate System highway using the I-5/I-205 route.

2. State-designated Alternatives to the Preferred Route

49 CFR 177.825(b)(1) authorizes a State routing agency to designate alternatives to Interstate System highways for highway route controlled quantity shipments, provided the state meets certain conditions. It provides in relevant part:

"(i) The State routing agency shall select routes to minimize radiological risk using "Guidelines for Selecting Preferred Highway Routes for Highway Route Controlled Quantity Shipments of Radioactive Materials," or an equivalent routing analysis which adequately considers overall risk to the public. Designations must be preceded by substantive consultation with affected local jurisdictions and with any other affected States to ensure consideration of all impacts and continuity of designated routes."

To our knowledge, none of these conditions has been met to support Washington's effective designation of an alternative route. Washington has not compared the two routes from Trojan to determine that restricting shipments from the I-5/I-205 route will minimize radiological risk. It has not conducted a routing analysis which adequately considers overall risk to the public. Nor has Washington consulted with Oregon officials to ensure all impacts are considered in prohibiting shipments from the I-5/I-205 route.

For Placarded Shipments

Section 177.825(a) directs carriers and drivers of shipments for which a radioactive placard is required (but which are not route controlled) to ensure the vehicle is operated on routes that minimize radiological risk. The carrier or driver is to consider available information on accident rates, transit time, population density and activities, and the time of day and the day of week during which transportation will occur.

WAC 446-50-040 precludes the carrier or operator of a shipment which requires placard from selecting the I-5/I-205 route. Since this is the preferred route for a highway route controlled quantity shipment, Oregon believes it is also the route which will reduce radiological risk for a shipment for which a placard is required.

Summary

The Washington requirements prohibit the I-5/I-205 route, and thus the use of state and Interstate system highways in Washington that are the preferred route, shortest-distance pickup and delivery route to the Interstate highways, and the route which likely reduces radiological risk. The Washington requirements shifts the shipments to higher risk routes in Oregon.

The Oregon Department of Energy requests a determination of preemption of the Washington State laws set out above to the extent, and only to the extent, that the laws prohibit access for trucks from Oregon to preferred routes in Washington.

Notice to the State of Washington

I hereby certify that a copy of this application has been sent by registered mail to the State of Washington. A copy of the application has been mailed to:

George Tellevik, Chief, Washington State Patrol, General Administration Building, AX-12, Olympia, Washington 98504.

I appreciate your prompt attention to this matter. I understand that you may initiate an investigation of this issue pursuant to the procedures outlined in CFR 49 Section 207(a). My staff are eager to provide further information that will help resolve this issue.

Please feel free to contact David Stewart-Smith or Bob Robison for any further information. They are available at the above address and phone number.

Sincerely,
Christine A. Ervin,

Director.

Public Comment

The FHWA is requesting comments regarding whether or not the State of Washington routing regulations are preempted by the HMTA.

Authority: 49 U.S.C. App. 1811, 49 CFR 1.48.

Issued on: April 23, 1992.

T.D. Larson,
Administrator.

[FR Doc 92-10028 Filed 4-29-92 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. 91-64; No. 2]

Mazda (North America), Inc.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Mazda (North America), Inc. (Mazda) of Washington, DC, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) on the basis that a noncompliance with Federal Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment* is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published on December 19, 1991, and an opportunity afforded for comment (56 FR 65925). From April 1990 to May 1991, Mazda installed certain rear combination lamps on 43,239, 1990 and 1991 model year MX-5 (Miata) passenger cars. Some lamps lacked a sufficient quantity of reflecting paint on the inner surface of the turn signal lamp body. As a result, there is the possibility that the turn signal lamps on these vehicles do not comply with the photometric requirements of Standard No. 108.

Paragraph S5.1.1.11 of Standard No. 108 specifies that a turn signal lamp shall meet a minimum percentage of a corresponding minimum value of lighting intensity for each of 19 designated test points. Paragraph S5.1.1.12 of Standard No. 108 specifies that a turn signal lamp is not required to meet this minimum if the sum of the percentages of the minimum lighting intensity measured at the test points is not less than those specified for each of five different groups of the test points.

Mazda provided test data on three samples of the subject turn signal lamps, which show that the lamps do not meet minimum intensity requirements at five of the 19 test points specified in S5.1.1.11 of Standard No. 108. At test point 5U-V, the minimum required intensity is 113.8 candela (cd), while the minimum values measured on the three lamps ranged from 75.3 cd to 89.6 cd. At test points H-5L, H-V, and H-5R, the minimum required value is 130 cd, while the minimum values measured on the three lamps ranged from 108.9 cd to 116.6 cd. At test point 5D-V, the minimum required value is 113.8 cd, while the

minimum values measured on the three lamps ranged from 94.5 cd to 103.1 cd. In addition to not meeting minimum lighting intensity requirements at these five test points, the data provided by Mazda show that the turn signal lamps do not meet minimum requirements when the test points are grouped as specified in S5.1.1.12.

Mazda supported its petition for inconsequential noncompliance with the following:

1. The overall candela output level provided by the subject turn signal lamps exceeds the minimum value required by Standard 108.

Of the 19 test points, only 5 are below the minimum candela output level, ranging from 66.0 percent to 90.4 percent of the required value. However, the sum of the candela measured at all 19 test points is 22.7 percent to 26.8 percent more than the sum of the required value. The sum of the measured candela ranged from 1365.9 cd to 1410.6 cd, and the sum of the required candela is 1112.4 cd.

Of the five groups of test points specified in S5.1.1.12, only Group Three has a total candela output level which is below the required value. Group Three is 14.2 percent to 17.6 percent less than the required value. However, the sum of the candela output for Group Three, along with that of Groups Two and Four which are close to Group Three, exceeds the required value. The sum of the measured candela for Groups Two, three, and Four ranges from 1014.2 cd to 1065.6 cd, and the sum of the required values for these three groups is 943.2 cd.

2. The performance of the subject turn signal lamps is adequate in all regards. To confirm the photometric performance of the subject lamp, Mazda conducted jury evaluation comparing the illumination visibility of the subject lamp with a proper one which provides candela output marginally exceeding [Standard] 108 minimum requirements. In this evaluation, ten observers evaluated the subject lamp with the light turned on and by viewing from each 2, 5, 10, and 30 [meters] backward. There was no difference * * * and it was judged that [the turn signal lamp] has no problem on visibility and signaling performance.

3. Mazda has not received any owner complaints, filed reports, or allegations of hazardous circumstances relating to the illumination or signaling capability of these turn signal lamps.

4. There is no possibility that the performance of the lamps will worsen with vehicle usage.

5. Existence of the manufacturing error which produced this problem was eliminated in May 1991, because an exclusive manufacturing line was set up for the subject lamp at that time.

No comments were received on the petition.

NHTSA has found most compelling the argument that a jury evaluation comparing light from a complying and a noncomplying lamp found no discernable difference, at distances of 2, 5, 10, and 30 meters. As the agency noted in 1990 in granting an inconsequentiality petition by Hella, Inc., "a reduction of approximately 25 percent in lighting intensity is required before the human eye can detect the difference between two lamps" (55 FR 37601, at 37602). The Group 3 intensity failures of the Mazda turn signal lamps were all within less than 18 percent of the minimum values specified by the standard, and therefore, as Mazda relates, were undetectable by the naked eye.

The agency has not agreed with Mazda's argument that, as long as the sum of the intensities measured exceeds the minimum of the sum of the required minima that the noncompliance is inconsequential. The 19 test points of the standard ensure that the turn signal lamp can be seen from different angles. This is not accomplished by merely meeting the sum of the minimum required values. Although NHTSA feels that summing the intensities at all 19 test points is not a valid method to show inconsequentiality, it has concluded, on the basis of the visual evaluation and minimal level of noncompliance, that the petition should be granted. Mazda has subsequently verified in tests provided to NHTSA that other lamps manufactured during the period in question do, in fact, meet the applicable requirements of Standard No. 108.

Accordingly, petitioner has met its burden of persuasion that the noncompliance described herein is inconsequential as it relates to motor vehicle safety, and its petition is granted pursuant to authority indicated below.

Authority: 15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and CFR 501.8.

Issued on: April 24, 1992.

Barry Felice,

Associate Administrator for Rulemaking.

[FR Doc. 92-10066 Filed 4-29-92; 8:45 am]

BILLING CODE 4910-59-M

Sunshine Act Meetings

Federal Register

Vol. 57, No. 84

Thursday, April 30, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, May 5, 1992, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Thursday, May 7, 1992, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC. (Ninth Floor.)

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes

Title 26 Certification Matters

Advisory Opinion 1992-12: Mr. Martin L.

Peterson on behalf of LaRocco for Congress
Proposed Regulations on Petitions for

Rulemaking

Administrative Matters

PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Press Officer,
Telephone: (202) 376-3155.

Delores Harris,

Administrative Assistant.

[FR Doc. 92-10272 Filed 4-28-92; 8:45 am]

BILLING CODE 6715-01-M

Thursday
April 30, 1992

Estimate Report

Part II

Environmental Protection Agency

40 CFR Part 86

Revisions to Durability Procedures in the
Federal Motor Vehicle Emission
Certification Regulations; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL-4125-3]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Proposed Regulations for Light-Duty Vehicle and Light-Duty Truck 1994 and 1995 Model Year Durability Testing Procedures and 1994 and Later Model Year Allowable Maintenance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes revisions to durability procedures in the Federal motor vehicle emission certification regulations. These revisions apply to model year 1994 and 1995 light-duty vehicles (LDVs) and light-duty trucks (LDTs). The Agency also proposes revisions to the allowable maintenance provisions for model year 1994 and later LDVs and LDTs. The proposal establishes durability procedures for the certification of vehicles subject to the Tier 1 emission standards rulemaking published on June 5, 1991.¹ The proposed durability procedures are in large part consistent with those adopted by the State of California. The aim is to minimize near-term cost and leadtime burdens, while assuring no loss in the technical validity of the certification durability assessment. The proposed new allowable maintenance regulations generally extend maintenance intervals for LDVs in response to the longer Tier 1 definition of LDV useful life and update the provisions applicable to LDTs.

The main purpose of this rulemaking is to provide interim revisions to the current durability procedures; durability testing procedures for the 1996 and later model years will be proposed in a separate notice and will address technical and procedural improvements to the durability program that are currently undergoing evaluation by the Agency. The proposed new allowable maintenance regulations generally extend maintenance intervals for LDVs in response to the longer Tier 1 definition of LDV useful life and update the provisions applicable to LDTs.

DATES: Written comments on this NPRM must be submitted on or before June 15, 1992.

EPA will conduct a public hearing on this NPRM on May 15, 1992.

ADDRESSES: Written comments should be submitted (in duplicate if possible) to: EPA Air Docket, Attention Docket No. A-90-24, USEPA, room M-1500, 401 M Street SW., Washington, DC 20460. The public hearing will be held at 9 a.m. in the Ulrich Conference Center, Lobby E, Dominos' Farm, 24 Frank Lloyd Drive, Ann Arbor, Michigan 48106.

Materials relevant to this proposed rulemaking are available for inspection in Docket No. A-90-24, located at the above address on the first floor of Waterside Mall, from 8:30 a.m. to 12 noon and from 1:30 to 3:30 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: James A. McCargar, Certification Division, U.S. Environmental Protection Agency, Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Telephone (313) 668-4244.

SUPPLEMENTARY INFORMATION:

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I. Background

A. Durability Procedures

The Clean Air Act prohibits manufacturers of new motor vehicles from selling or introducing such vehicles into commerce in the United States unless the vehicles are covered by a certificate of emissions conformity. The Environmental Protection Agency (EPA) is charged with the responsibility of granting certificates of conformity based upon testing that verifies the emission durability of the vehicle; that is, the ability of the vehicle's design to conform with applicable emission standards for its useful life.

Because certification is a prerequisite for introduction into commerce, and because reasonable leadtime is required by manufacturers to guarantee the marketability of their products, the process of demonstrating emission durability necessarily begins well prior to production. For LDVs, EPA's current durability procedures require manufacturers to accumulate mileage on preproduction vehicles to simulate in-use operation over a 50,000-mile LDV useful life. These vehicles are termed durability data vehicles (DDVs); the mileage accumulation cycle is commonly referred to as the Automotive Manufacturers Association (AMA) cycle.

Data generated during periodic emission tests on the DDVs are regressed and used to calculate multiplicative deterioration factors (DFs), which quantify the degradation of vehicle emissions as a linear function of accumulated mileage. Currently for LDVs, the DFs are applied to test data on low-mileage vehicles (referred to as emission data vehicles, or EDVs) to calculate the projected emissions or "certification emission levels" at 50,000 miles. The calculated certification level must not exceed the applicable 50,000-mile emission standard in order for EPA to issue a certificate of conformity for the engine family represented by the DDVs and EDVs.

Current EPA regulations permit manufacturers to request use of alternative cycles for whole-vehicle mileage accumulation on LDVs.²

¹ 56 FR 25714 (June 5, 1991).

² 40 CFR 86.092-26(a)(2).

Historically, EPA has approved a number of manufacturers' requests for minor modifications to the AMA schedule, requests prompted by unique aspects of their test tracks or their desire to use mileage accumulation dynamometers in place of test track operation. The Agency has also received a limited number of manufacturer requests to employ whole-vehicle accumulation cycles that are significantly different (in average speed, acceleration rates, or maximum speeds, for example) from the current cycle. Agency policy has been to approve such requests only if the manufacturer provides strong evidence that the cycle will generate DFs that are substantially more representative of in-use deterioration. To date, the Agency has denied all requests to employ significantly different AMA cycles because they failed to meet this criterion.

For a variety of reasons, no DDV mileage accumulation cycle—including the AMA cycle—can precisely predict in-use deterioration. Therefore, the AMA cycle has historically served as a standard for what the Agency considers to be an acceptable level of performance from a durability program based on whole-vehicle mileage accumulation.

For model year (MY) 1984 and later LDTs, EPA regulations have permitted a manufacturer to develop (and essentially self-approve) its own method for generating DFs for LDTs, subject to good engineering practice. The regulations state that such procedures (including the selection of components, systems and/or vehicles to be tested) are expected to predict in-use deterioration.³ In practice, most manufacturers combine engine families into larger groupings; DDVs representing these groupings are typically run to some mileage in excess of 50,000 miles but less than LDT full useful life; data from periodic emission tests are extrapolated to the full-useful life mileage to permit calculation of the DFs.⁴

Soon after the manufacturers certified their first LDTs using the self-approved durability program, EPA became concerned that some resulting DFs were significantly lower than expectations for actual in-use deterioration of LDTs with 120,000-mile useful lives. In some cases, the values even fell short of predictions based on data for LDVs run for 50,000

miles on the AMA cycle. With input from EPA and with increased manufacturer experience with the program, the Agency believes that manufacturers now submit LDT DFs that are at least as representative of in-use deterioration as DFs that would be generated from a program based on AMA mileage accumulation.

The cost of the durability program for both LDVs and LDTs to both the manufacturers and EPA is reduced significantly by permitting manufacturers to use durability data from previous years or from other engine families when seeking certification of new families. Under 40 CFR 86.094-24(f), manufacturers may use data generated by one test vehicle to represent data in a different engine family, if certain design similarities exist. This is termed "carryover" when applying data from one model year to the next, or "carryacross" when applying data from one engine family to another within the same model year.⁵

The Agency has established specific policies for the use of carryover data.⁶ The Agency has historically allowed carryover when the older data have met all requirements of the current model year certification program. Technically, only emission test data, and not DFs, are carried over; new DFs are calculated from those data. However, the practical effect is to carry over the DF if no changes in requirements have occurred from one year to the next.

The current EPA durability procedures have been an effective element of EPA's motor vehicle emission control program. Deterioration factors calculated for DDVs run on the AMA cycle or derived by other means in the LDT durability program consistently reflect degradation of emissions with mileage. Manufacturers must therefore strive to minimize that degradation, as well as hold down the base emission levels of their low-mileage EDVs, in order to ensure the compliance of the certification values calculated for each family. In addition, accumulation of mileage by the DDVs provides valuable information on the physical durability of individual emission-related components, because these components are exercised during the operation of the DDV.

³For ease of presentation in the remainder of the preamble, the term "carryover" will be used to refer to both carryover and carry-across, except where the distinction between the two concepts is important in the given context.

⁶"General Criteria for the Carryover and Carry-Across of Certification Data and the Carryover of Fuel Economy Data for Light-Duty Vehicles and Light-Duty Trucks," Advisory Circular 17F of the Office of Mobile Sources, U.S. EPA, November 26, 1982.

On November 15, 1990, the President signed into law the Clean Air Act Amendments of 1990 (hereafter referred to as the CAAA, or the Amendments).⁷ The Amendments modified the definitions of motor vehicle useful life, adding a 10-year/100,000-mile "full" useful life for LDVs, adding a 5-year/50,000-mile "intermediate" useful life for LDTs, and truncating the full useful life of the lighter (less than 6000 lb gross vehicle weight) LDTs at 10 years, 100,000 miles. The Agency published final regulations promulgating new "Tier 1" emission standards at the revised useful life levels on June 5, 1991.⁸ As required, the Tier 1 standards are implemented on a phased-in basis; that is, minimum percentages of a manufacturer's fleet in a given model year must meet the new Tier 1 standards, and the balance may certify to the older "Tier 0" standards. The phase-in for LDVs and light LDTs begins in model year 1994 (MY1994) and reaches 100 percent in MY1996; phase-in of the heavy LDTs begins in MY1996 and reaches 100 percent in MY1997.

When promulgating that rule, EPA noted that the longer Tier 1 useful life levels made some sections of current EPA durability regulations obsolete. For example, current regulations call for DDVs to accumulate 50,000 miles of service, whereas the Tier 1 certification standards for MY1994 LDVs apply for a 100,000 mile useful life. However, the 180-day statutory deadline for promulgation of the Tier 1 standards did not provide sufficient time to develop and promulgate revised durability procedures at that time. Instead, the Agency committed to promulgating the necessary durability program revisions in a separate rule. Today's notice initiates that process, but must be viewed in the context of an ongoing EPA evaluation of the light-duty durability program.

Prior to passage of the Amendments, EPA had considered revising the light-duty durability program for a variety of reasons. Although the program has generated emission control benefits, both EPA and the manufacturers believed that the current durability program could be improved to provide more accurate and cost-effective predictions of actual in-use emission deterioration. On that basis, EPA published a Notice of Public Workshop (NPW) on December 21, 1990, critiquing the current durability program and outlining a framework for a revised program.⁹ Some of the limitations in the

⁷ Public Law No. 101-549, 104 Stat. 2399.

⁸ 56 FR 25724 (June 5, 1991).

⁹ 55 FR 52277 (December 21, 1990).

³See, for example, 40 CFR 86.092-24(c)(2).

⁴For a more complete description of the certification durability process for both LDVs and LDTs, refer to EPA's 21 December 1990 Notice of Public Workshop on revisions to the durability program, 55 FR 52277.

current program discussed in the notice were the short time period (typically four to six months) in which 50,000 miles must be accumulated on the DDVs, the prototype nature of the DDV, and evidence that the AMA mileage accumulation schedule is less severe than actual in-use operation. Some manufacturers had indicated in discussions with EPA that their desire for greater confidence in the in-use performance of their designs had prompted them to conduct additional programs assessing the emission control durability, beyond the requirements of EPA's durability program.

These topics were discussed and expanded upon in the subsequent public workshop, held on January 30, 1991. The focus was on improvements to the light-duty durability procedures to address both Agency and manufacturer concerns about the current procedures, and on reconciling those improvements with the new Tier 1 emission and useful life requirements. At least one manufacturer projected that at least 24 months' leadtime before the start of production would be required to implement an LDV durability program based on Tier 1 full-life mileage accumulation. Several vehicle manufacturers expressed concerns about the leadtime required to implement revised durability procedures and sought consistency with the durability program employed by the State of California.

Historically, California required manufacturers to accumulate 50,000 miles on the AMA cycle to demonstrate durability for LDVs and LDTs. Between the 1980 and 1993 model years, however, the California Air Resources Board (CARB, or the Board) adopted a series of more stringent tailpipe standards and revised useful life definitions that also prompted changes in their durability procedures. The new California standards and useful life levels applicable in the next several model years are now identical in almost all respects to the Federal standards and useful life mandated by Congress in the 1990 Amendments. However, the California analogues to most of the Federal Tier 1 standards are scheduled to be phased-in one year earlier than Tier 1, beginning with the 1993 model year.

The primary CARB durability program now calls for mileage accumulation with the AMA cycle to the appropriate full useful life. The program has no manufacturer self-approved DF program analogous to the Federal LDT durability program. However, CARB does provide several options which could reduce the burden of their durability program while

maintaining or improving the expectation that in-use performance is appropriately assessed. One option allows a manufacturer to seek approval to terminate mileage accumulation and emission testing after conducting the AMA cycle for, at minimum, three-quarters of the full useful life, if it provides sufficient other evidence of full-life durability. Thus, the minimum mileage accumulation (using EPA definitions for the vehicle categories) would be 75,000 miles for LDVs and light LDTs¹⁰ and 90,000 miles for heavy LDTs.¹¹ If CARB approves the request, the manufacturer may then extrapolate a regression line determined from the test results over the period of AMA mileage accumulation to the full useful life. Another option allows approval of alternative durability procedures in place of the full-life or extrapolated mileage accumulation approaches, if the manufacturer provides evidence showing the alternatives will result in accurate prediction of in-use deterioration.

Several manufacturers have entered negotiations with CARB regarding acceptable alternative durability procedures. One such agreement was finalized between CARB and General Motors (GM) Corporation on May 31, 1990 for certain specific engine families.¹² The GM alternative procedure is based on a demonstration acceptable to CARB that emission deterioration in the GM systems is attributable solely to the oxygen sensor and catalyst; that is, the engine-out emissions of these specific emission control systems do not deteriorate. Under the agreement with CARB, GM will subject the catalytic converter and oxygen sensor to bench aging procedures designed to cause the emission deterioration expected on actual in-use vehicles during their full useful life. Deterioration factors will be determined from back-to-back emission tests conducted on a vehicle with the new and aged components installed. General Motors must also provide information demonstrating that components other than the catalyst and oxygen sensor are durable.

In support of its request for alternative durability procedures, GM provided data to CARB linking their bench procedures to actual in-use emission

data. However, CARB required additional assurances to validate the procedures. Thus, a key provision in the final agreement between CARB and GM is GM's commitment to the future testing of in-use vehicles from each engine family as a "reality check" of the alternative durability procedures. The results will be provided to CARB with the understanding that future improvements to the procedures will be developed if inadequacies are discovered. Additionally, GM agreed to reimburse CARB for the cost of any recall testing that resulted in a mandatory recall of GM vehicles certified under the alternative procedures.

The staffs at EPA and CARB coordinated closely during the negotiations on alternative durability procedures under the CARB regulations, prompted by both groups' common interest in improving durability procedures. In preparation for the January 1991 workshop, Agency staff also met with representatives from several vehicle manufacturers to discuss the possibility that EPA might promulgate an alternative durability option similar to that adopted by CARB. In particular, GM sought EPA rulemaking that would permit the procedures approved under its agreement with CARB to be applied for Federal certification as well.

The Agency's December 1990 workshop notice and subsequent public workshop contained considerable discussion on bench testing procedures backed up by a reality check. The EPA indicated a strong interest in developing regulations that might allow such testing. At the same time, EPA expressed a desire to refine the provisions for the reality check that were included in the agreement between CARB and GM. The Agency sought suggestions for specific criteria to judge failure of the reality check and for remedies to be required in the event of such failure. The intent was to clarify up front the risks and responsibilities of a manufacturer when electing the alternative procedure path and to avoid future disputes on the adequacy of a manufacturer's alternative program. Putting uniform criteria in place for assessing the adequacy of the reality checks could also facilitate smooth implementation of alternative durability programs and avoid the resource and leadtime impacts on both EPA and manufacturers from negotiating the design of the reality check on a case-by-case basis.

Following the January 1991 workshop, the Agency started developing draft

¹⁰ A light LDT is defined as any LDT rated up through 6000 lbs. GVWR.

¹¹ A heavy LDT is defined as any LDT rated greater than 6000 lbs. GVWR.

¹² See correspondence from K.D. Drachand, Chief of the Mobile Source Division, CARB to Samuel A. Leonard, GM Environmental Activities Staff, May 31, 1990, CARB Ref No. C-90-34, EPA Docket A-90-24, item II-D-2.

revisions to the light-duty durability program that would address both the new useful life requirements mandated by the Amendments and the objective of providing alternatives to conventional AMA-based mileage accumulation. Further contacts with vehicle manufacturers explored the reality check issues discussed above. Contract work was undertaken to examine alternatives to the modes of the current AMA cycle. The practical aspects of manufacturer leadtime and coordination with the California program were also considered.

In this process, the Agency concluded that the time needed to resolve key technical issues associated with a new durability program would not allow sufficient leadtime for manufacturers to prepare for the 1994 and 1995 model years. The EPA is at this time proposing an interim durability program, applicable only to the 1994 and 1995 model years.

Section II of this preamble outlines the proposal. Section III lists EPA's objectives in the rulemaking, explains the options considered, and provides detail on important elements of the option proposed. The final sections of the preamble discuss the environmental and economic aspects of the proposal and address certain administrative requirements.

B. Allowable Maintenance Regulations

Current EPA regulations specify that before a manufacturer performs maintenance on vehicles or components used in determining DFs, it must demonstrate that the maintenance is "technologically necessary to assure in-use compliance with emission standards."¹³ The Agency has promulgated a list of emission-related components and systems together with the shortest "allowable maintenance intervals" considered technologically necessary. The intervals are also the shortest intervals at which a manufacturer can require owners to perform emission-related maintenance as a condition of continued Federal emission warranty coverage.

The Agency may establish more restrictive (i.e., longer) allowable maintenance mileage intervals, if it determines that more frequent maintenance is not technologically necessary. The Agency may also add to the list of emission-related components and systems for which minimum intervals are prescribed.¹⁴ Historically,

EPA has set new allowable maintenance intervals on the basis of the longest interval that any manufacturer recommends for a given component.¹⁵

Consistent with the Tier 0 definitions of useful life, the current LDV regulations only specify allowable maintenance intervals through 50,000 miles. For this action, the Agency has reexamined LDV allowable maintenance intervals based on the adoption of 100,000-mile useful life for Tier 1 LDVs. Full-life allowable maintenance intervals already exist for Tier 0 LDTs, because full useful life definitions applied to these vehicles before adoption of the 1990 Amendments. As part of today's Notice, however, EPA considered limited adjustments to the LDT allowable maintenance intervals and additions to the list of maintained components. In this process, the Agency reviewed the allowable maintenance requirements in the California emission control program, which has implemented some full useful life requirements in advance of the Federal government.

II. Proposed Regulations

A. Proposed Revisions to Durability Procedures

The Agency proposes to adopt modified versions of the current durability procedures for use in certifying MY1994 and MY1995 LDVs and LDTs. Much of the structure of the current program remains intact. For example, final certification values will continue to be determined by applying multiplicative DFs to low-mileage emission test results on EDVs.

The AMA cycle is carried forward in its historical form as the standard EPA-defined procedure for LDV mileage accumulation, although manufacturers retain the option to petition EPA for use of alternative mileage accumulation procedures. For Tier 0 LDVs, the duration of AMA mileage accumulation remains at 50,000 miles. The standard LDV durability program still employs preproduction DDVs,¹⁶ and retains the existing option for manufacturers to apply for an "alternative durability program" based in large part on data from production DDVs.¹⁷

¹³ See 45 FR 63738 (September 25, 1980). "With proper emphasis placed on durable, low-maintenance designs * * * manufacturers will opt for the best available technology (from a maintenance perspective) for their emission related components. Thus, the minimum level of maintenance currently required for an item should be a lower limit for * * * the interval."

¹⁶ See proposed § 86.094-13(c), "Standard AMA Durability Program."

¹⁷ See proposed § 86.094-13(d), "Production AMA Durability Program."

For LDTs, manufacturers continue to develop and submit DFs based on their own service accumulation and vehicle/component selection methodologies, consistent with good engineering practice.¹⁸ Thus, EPA does not dictate a standard service accumulation methodology or preproduction durability test vehicle requirement for LDTs. The existing "alternative durability program" option based on production DDVs has been deleted for LDTs. Promulgation of the self-approval program for LDTs in 1985 made this earlier alternative essentially moot, and no LDT manufacturer currently employs the option.

Several new durability program elements are proposed for MY1994 and MY1995. First, the duration of AMA mileage accumulation for Tier 1 LDVs certified under the standard EPA-defined LDV program is set at 100,000 miles.

Manufacturers may request approval to terminate DDV mileage accumulation and emission testing on Tier 1 LDVs at any point beyond 75,000 miles and to calculate 100,000-mile DFs based on extrapolations from those test data. The manufacturer's request for approval must include information demonstrating the durability of the vehicle's emission control components and systems at or beyond the full useful life. The Agency will approve such requests based primarily on evaluations of the linear correlation of the test data, the impact of outlier data, the maintenance history of the DDV, and the supplemental data provided by the manufacturer to substantiate satisfactory 100,000-mile component durability. However, other information may also be considered.

Second, the Agency proposes to add a new alternative durability program option for LDVs and LDTs, based on alternative service accumulation methodologies. This alternative service accumulation option involves submission by the manufacturer, for the Administrator's approval, of an alternative durability program, including (i) the alternative service accumulation procedure, (ii) the selection method for vehicles and components, (iii) the procedures for determining the deterioration factor, (iv) an in-use verification program (the "reality check"), as well as (v) data on the durability of all emission-related components. If the manufacturer's proposed alternative durability program is satisfactory to the Administrator, all necessary aspects of the alternative

¹⁸ See proposed § 86.094-13(f), "Standard Self-Approval Durability Program."

¹³ See 40 CFR 86.090-25(b)(2).

¹⁴ Ibid.

durability program will be included in a written agreement between the manufacturer and EPA. The Agency recognizes that manufacturers may develop ongoing improvements to their in-use verification testing programs. Therefore, the Agency is proposing that the manufacturer and EPA may agree to amend the in-use verification portion of the initial agreement, if the manufacturer demonstrates and the Agency determines that the amended agreement will improve the in-use verification portion of the agreement.

Any certificate of conformity issued by EPA, based on such an alternative durability program, will be conditioned on full compliance by the manufacturer with the terms of the written agreement. If the manufacturer fails to fully execute its terms, including the in-use verification program, then the manufacturer will be viewed as failing to comply with the conditions upon which the certificate has been issued. As a result, the vehicles or trucks originally covered by the certificate will instead not be covered by the certificate, and the manufacturer may be subject to the imposition of civil penalties. As explained in Part IV. C regarding the in-use verification program, the Agency expects to exercise its enforcement discretion in determining whether civil penalties are appropriate.

Under this option, manufacturers may submit service accumulation procedures for individual components or systems rather than for whole DDVs. The basis for such procedures may be bench cycling or aging techniques that simulate in-use aging and operating environments. Various conditions, including the following, must be met for the Agency to issue a certificate under this program:

1. The manufacturer demonstrates to the satisfaction of the Administrator that such procedures will result in deterioration factors that are representative of actual in-use deterioration.
2. The manufacturer provides data that shows to the satisfaction of the Administrator that all emission-related components are designed to properly operate for the useful life of the vehicles in actual use (or such minimum intervals, as specified in allowable scheduled maintenance regulations).
3. The manufacturer agrees to an in-use verification program, acceptable to the Administrator, that includes an agreement to recruit and test in-use vehicles in subsequent years to validate that the alternative procedures accurately predict the deterioration of the vehicle's emissions in actual use of

the applicable useful life. The design of such an in-use reality check, including the design of the vehicle sample, the criteria to be used in evaluating the results of the vehicle testing, and the remedies for failure to satisfy those criteria will be specified in an agreement entered into by EPA and the manufacturer prior to certification. Execution of the terms in the agreement, including completion of the reality check, will be a condition of certification.

A final change included in the proposed interim procedures for MY1994 and MY1995 is a provision for a manufacturer to request alternative mileage intervals between test points for durability data vehicles. This is expected to facilitate common testing with CARB.

For the convenience of readers, EPA is centralizing many of the durability requirements into a single section, proposed 40 CFR 86.094-13, "Light Duty Exhaust Durability Programs."

B. Proposed Revisions to Allowable Maintenance Intervals

The Agency is also proposing revisions to the allowable maintenance regulations, applicable to MY1994 and later LDVs and LDTs. For all LDTs, three modifications are proposed: the maintenance interval for exhaust gas recirculation (EGR) systems and idle mixture adjustments increases from 50,000 miles to 100,000 miles, and a new supercharger interval is established at 100,000 miles. The maintenance intervals for all LDVs are proposed to match the complete list of LDT intervals, as revised. A table showing all changes to the current list of allowable maintenance intervals is contained in section III.

III. Objectives and Discussion of Alternatives Considered

A. Objectives

The Agency's key objective in promulgating interim durability procedures is to provide the regulations necessary for vehicle manufacturers to certify their MY1994 and MY1995 light-duty fleets in a timely and cost-effective fashion, while meeting or exceeding the ability of the current durability program to assure in-use emission compliance. The program allows manufacturers to adopt alternative procedures that improve upon the current durability provisions, prior to EPA promulgation of the long-term durability program applicable to MY1996 and beyond. Finally, EPA seeks to smooth the transition from the interim procedures to the long-term durability program where

possible. In pursuing these objectives, EPA is constrained by the minimal leadtime before manufacturers must begin their MY1994 durability programs.

B. Rationale for Promulgating Interim Procedures

As stated in the background section, the Agency must promulgate revised durability procedures because the mileage requirements in the current regulations were made obsolete for some MY1994 and 1995 vehicles by the new Tier 1 useful life provisions in the 1990 Amendments. Promulgation of the revisions must occur promptly because the Tier 1 requirements commence with MY1994 and manufacturers require significant leadtime prior to production to execute the durability program. The Agency has elected to promulgate interim durability procedures because the leadtime available for promulgating the necessary procedures applicable to MY1994 Tier 1 vehicles is not sufficient to allow consideration of ongoing efforts by the Agency and the vehicle manufacturers to develop improvements to those procedures. The likelihood that such improvements can be finalized for MY1996 leads EPA to limit the applicability of the interim procedures to MY1994 and MY1995.

Comment from manufacturers on the leadtime issue weighed heavily in this decision by EPA. For current 50,000-mile DDVs, many manufacturers start accumulating miles on the earliest portions of their test fleets approximately 18 months before the beginning of production. This time includes three to eight months of actual mileage accumulation and DDV emission testing. The balance of the time is spent finalizing vehicle calibrations and then accumulating mileage and performing emission tests on EDVs. Some DDVs may start earlier and some later, depending on the size of the manufacturer's test fleet and its capacity to run concurrent test vehicles.

For Tier 1 engine families, the leadtime requirements would be more demanding if the only option were to run 100,000 miles of AMA mileage accumulation on all DDVs, in addition to spending the time that might be needed to finalize calibrations under the more stringent standards. Manufacturers stated in the January 1990 public workshop that between 18 and 24 months of leadtime would be needed to conduct a Tier 1 certification with a durability program based on full-life mileage accumulation. Based on a nominal start of MY1994 production in July or August of 1993, some manufacturers have already begun

AMA mileage accumulation on DDVs targeted at MY1994 certifications. Clearly, no time is available for EPA to develop, and then manufacturers to consider, proposals which would mandate significant changes to the procedures for the 1994 model year.

Hence, a regulation is needed which will provide the necessary coverage of the new useful life requirements, minimize the necessary leadtime, and smooth the transition from the established durability program. Today's proposal meets this objective by allowing the maximum use of current Federal procedures, by facilitating the use of data which will already be available from the CARB MY1993 program, and by providing manufacturers with the option to begin alternative, improved durability programs.

Nevertheless, the Agency has objectives for improvements in its programs that extend beyond the pending model years. As mentioned in the background section, EPA seeks to expand the availability of alternative durability programs, but to do so in a manner that optimizes both Agency and manufacturer resources, while improving the program's predictions of actual in-use deterioration. The Agency is also investigating modifications to the AMA mileage accumulation cycle. A more effective long-term durability program will likely incorporate elements such as these.

If EPA were in a position to propose the details of its desired long-term program today, there might be sufficient leadtime to implement the changes for the 1995 model year. However, additional time is needed to develop such details, allow sufficient public comment, and analyze and respond to the comments. By the time such a process could be completed, EPA forecasts that insufficient leadtime would remain for MY1995 implementation. Additionally, it is burdensome for manufacturers to adopt rapid successive changes to the certification program. Hence, EPA is proposing that the interim program extend through the 1994 and 1995 model years.

The Agency has designed the interim program for consistency with the new CARB durability program, required for certification of MY1993 and later California "Tier 1" vehicles. This, in effect, gives the manufacturers a three-year period where the substance of the interim program will apply.

C. Tier 1 Light-Duty Vehicles

The Agency considered a number of options for the interim Tier 1 LDV durability program:

- (1) Require AMA mileage accumulation to the new Tier 1 LDV useful life of 100,000 miles;
- (2) Unconditionally accept extrapolation of 50,000-mile AMA data to the 100,000-mile useful life;
- (3) Adopt the current LDT durability program for LDVs;
- (4) Permit either 100,000-mile AMA mileage accumulation or conditional extrapolation of data from lesser AMA mileage; and,
- (5) Permit the mileage accumulation procedures of the fourth option, but also allow alternatives to full-vehicle service accumulation, in conjunction with an in-use reality check.

Based on comments from the January 1991 workshop, EPA believes that some manufacturers would prefer the simplicity and certainty associated with the first Tier 1 LDV option. Nevertheless, doubling the current LDV mileage accumulation requirement could have a proportional impact on the cost and time required to conduct the program. The Agency believes that mandating full-life AMA mileage accumulations would not generate the most timely and cost-effective program, and such an action would be inconsistent with the objective of permitting manufacturers to improve upon the current program in anticipation of the MY1996 and later program.

On the other hand, simply extrapolating the data currently obtained from the 50,000-mile AMA program to 100,000 miles, as in the second option, is unlikely to maintain or exceed the level of in-use predictability of the current program. Indeed, one motivation for adopting 100,000-mile standards is the expectation that the durability performance of a vehicle on its second 50,000 miles may be worse than the performance on the first.

The third option is potentially less likely to meet the same objective of in-use predictability. As noted in the December 1990 workshop notice, the flexibility afforded manufacturers in the current LDT durability program has, in its early years, apparently generated DFs that are less predictive of in-use deterioration than the current LDV program DFs. Permitting the same LDT approach to be applied, unmodified, to MY1994 and MY1995 LDVs could compromise the quality of the LDV program, rather than maintain or increase that quality.

If appropriate conditions could be determined for extrapolating mileage

accumulation data, the fourth option could potentially answer the concerns outlined above for the first two options. The Agency believes that such conditions exist, based on the approach taken by CARB to the same issue. As outlined in the background section, CARB permits extrapolation if mileage accumulation equivalent to three-quarters of the applicable useful life has been completed, if the test data over that interval meet certain linearity criteria, and if additional information on component durability is provided by the manufacturer. A more detailed discussion of this topic may be found in the issues section following.

Even if the Agency were to permit some form of conditional extrapolation of mileage accumulation data, EPA wishes to encourage the development of alternative durability programs based on manufacturer-designed service accumulation methods that are verified through data from in-use testing. The Agency sees the potential for increased accuracy in the durability projections themselves as well as the potential for manufacturer cost savings. The former potential arises in part because the Agency would seek substantial evidence of the likely success of the procedures before granting approval.

Based on the preceding rationale, the Agency has determined that the fifth option is the most reasonable approach to the interim durability procedures for the Tier 1 LDVs. Thus, as cited in Section II, the standard EPA-defined Tier 1 LDV durability program calls for 100,000 miles of AMA mileage accumulation, but manufacturers may seek approval to curtail that accumulation at or beyond 75,000 miles.¹⁹ The current alternative durability program based on production DDVs would continue in place.²⁰ In addition, manufacturers may seek approval of alternative durability procedures based on service accumulation methodologies of their own design, but subject to approval by the Administrator of program elements that must include demonstration of the likely in-use representativeness of the DFs, demonstration of full-life component durability, and manufacturer commitments to perform an in-use reality check.²¹

D. Tier 1 Light-Duty Trucks

Because phase-in of the Tier 1 standards for the heavy LDTs does not

¹⁹ See proposed § 86.094-13(c).

²⁰ See proposed § 86.094-13(d).

²¹ See proposed § 86.094-13(e), "Alternative Service Accumulation Durability Program."

begin until MY1996, the only Tier 1 LDTs affected by the proposed interim durability procedures are the light LDTs. As noted earlier, the Tier 1 rule changed useful life definitions for these vehicles to be consistent with the Tier 1 LDVs—lowering the full-life interval from 120,000 to 100,000 miles and adding a 50,000-mile intermediate useful life.

For these trucks, EPA considered the following options:

(1) Retain the current LDT durability program (based on manufacturer self-approved procedures and DFs) intact, except for the required modifications to the useful life definitions;

(2) Match the Tier 1 LDT durability program to the chosen Tier 1 LDV option;

(3) Adopt a hybrid of the current LDT and new Tier 1 LDV programs.

The Agency believes that at least some manufacturers would prefer the first option, and are planning against that possibility for certification of their MY1994 fleets. However, one concern with this option is the risk that manufacturers, faced with the tighter Tier 1 standards, may once again be unable to achieve a level of in-use predictability comparable to an AMA-based durability program. This would be inconsistent with the Agency's objective of maintaining or improving upon the effectiveness of the current durability program when implementing the interim procedures. If this option were to be adopted, EPA would plan to heighten its scrutiny of the technical adequacy of manufacturer's LDT durability programs, based on the requirement that those programs be based on good engineering judgment. Thus, for example, EPA could compare data from CARB LDTs, where 75,000-mile AMA durability demonstrations are the minimum, against manufacturer self-approved submittals for Federal certification. Good engineering practice would not have been followed if systematically lower DFs than analogous DFs based on the CARB data were submitted for EPA certification.

If EPA were to adopt the second option, many LDT manufacturers may be unable to meet the three minimum requirements proposed for the LDV alternative service accumulation option in the interim model years. These manufacturers would be forced to implement the AMA-based durability program, which could actually represent a loss of program effectiveness for manufacturers with reasonable LDT durability program designs. The Agency does not wish to force this situation.

Nevertheless, EPA sees some advantages in permitting manufacturers to adopt the explicit requirements of the

Tier 1 LDV alternative durability program for their LDTs. Under the current regulations, LDT manufacturers can employ alternative service accumulation approaches, but EPA approval of the approaches and execution of an in-use reality check would not be required. If manufacturers would be prepared to pursue these requirements for their Tier 1 LDTs and if the programs demonstrate superior in-use projections of deterioration, these approaches would meet EPA's objective of allowing manufacturer flexibility where improvements to current procedures should result.

In addition, the Agency currently expects the LDT durability program to change beginning with MY1996. To the extent that the alternative durability option also serves as the model for similar provisions in the long-term (MY1996 and later) EPA durability program, the data and experience gained by LDT manufacturers in the interim model years could significantly improve their chances for approval of MY1996 alternative programs or carryover of MY1994 or MY1995 LDT data.

On this basis, the proposed interim procedures include the option for Tier 1 light LDT manufacturers to either continue with the current LDT program (with an increased level of EPA scrutiny)²² or to adopt alternative durability programs with an in-use reality check, consistent with the LDV model discussed previously.²³

E. Tier 0 Light-Duty Vehicles and Trucks

The useful life levels and durability requirements for Tier 0 vehicles and trucks were unaffected by the Amendments and by promulgation of the Tier 1 rule. With these vehicles disappearing rapidly as the Tier 1 standards phase in, and with the likelihood that many Tier 0 vehicles will be certified based on carryover of earlier emission data, EPA has concluded that mandating changes to the Tier 0 durability procedures would not be consistent with the Agency's cost-effectiveness objective. The Agency sees the same advantages as cited above for light LDTs in permitting manufacturers to certify Tier 0 vehicles using alternative durability procedures and a reality check. The Agency believes manufacturers would gain experience in implementing a program approach that the EPA expects to play an important role for MY1996 and beyond. The option for such alternative

procedures is therefore included in the proposed regulations applicable to the Tier 0 vehicles.²⁴

IV. Discussion of Issues

A. Extrapolation of Mileage Accumulation Data to Full Useful Life

Current EPA regulations provide for the Administrator to approve mileage accumulation at levels less than the vehicle useful life if the resulting procedure otherwise meets the objective of the durability program.²⁵ In preparing the current proposal, the Agency has considered whether this option should be maintained or qualified in light of the new 100,000-mile Tier 1 standards applicable to LDVs.

Historically, the imposition of each new set of emission standards has led to a transition period during which vehicle manufacturers perfect the systems intended to guarantee compliance with the new requirements. Certification data submitted by the manufacturers during these transition periods normally lack counterparts in earlier certifications. Thus, the Agency has traditionally scrutinized such data with particular care. Similar conditions should prevail as vehicle manufacturers seek to demonstrate durability of their Tier 1 LDVs measured against the 100,000-mile Tier 1 standards, when only 50,000-mile durability demonstrations were required of their Tier 0 predecessors.

Left unchanged, current regulations would permit a manufacturer to petition the Administrator to extrapolate 50,000-mile durability data to the new 100,000-mile LDV useful life. The Agency believes such an approach would not meet the objectives of the LDV durability program, because it is precisely the region above 50,000 miles that has not previously been subject to control. The lack of new data would inhibit EPA's ability to execute its oversight function, and the risk of improperly certifying a nonconforming family could be substantial.

On the other hand, EPA accepts that high mileage deterioration may in some cases continue to follow a trend established by lower-mileage data. Confidence in this conclusion increases as more and more supporting test data are accumulated beyond 50,000 miles. The Agency is willing to consider that in some cases, with sufficient mileage accumulation data above 50,000 miles and with additional supporting data, such as evidence of the performance of individual emission components over

²² See proposed § 86.094-13(f).

²³ See proposed § 86.094-13(e).

²⁴ See proposed § 86.094-13(e).

²⁵ 40 CFR 86.092-26(a)(4)(i)(A).

the full vehicle useful life, a case can be made that curtailing whole-vehicle mileage accumulation prior to full 100,000-mile useful life will not compromise the quality of the DFs obtained. Thus the current discretion of the Administrator to approve mileage accumulation below full useful life may still be appropriate in some circumstances.

A similar conclusion was reached by CARB when it adopted the extrapolation approach, outlined previously in the background section, based on accumulating a minimum of three-quarters of the applicable useful life. The Agency notes that some manufacturers have already completed MY1993 California DDVs using extrapolated data approved by CARB. The Agency also notes that consistency with CARB is one important factor in meeting the objective of allowing compliance by manufacturers in a timely and cost-effective manner.

On the above basis, EPA is proposing an extrapolation approach and regulatory language that parallel those adopted by the California program. As in California, EPA proposes that approval of extrapolation requests would not occur in advance of completing a minimum mileage accumulation of 75,000 miles, nor would approval be automatic.²⁶ The burden of proof would rest with the manufacturer to provide justifications for the extrapolation based on, for example, the general linearity and scatter of the actual data and reasonable explanations for all outlier data. To compensate for the mileage accumulation not performed, the manufacturer would also be required to provide supplemental data proving component durability at least equivalent to 100,000-mile durability. An example of information a manufacturer could supply would be complying data from 100,000-mile DDVs with substantially similar components. Data on the in-use reliability of substantially similar designs could also be submitted. The Agency believes that data from a larger database of vehicles with substantially similar components

would significantly compensate for the reduction in component reliability data that would result from a 25,000-mile reduction in DDV mileage accumulation. The Administrator might also evaluate scheduled and unscheduled maintenance in making the determination to approve.

B. Approval Conditions for Programs Based on Alternative Service Accumulation Methods

Section II listed three of the basic conditions that EPA proposes must be met by any manufacturer seeking EPA approval to employ alternative service accumulation methods in their LDV durability programs. The first of these was a demonstration that the alternative procedures would generate DFs that are representative of actual in-use deterioration. Manufacturers face a higher standard here than with petitions for alternative whole-vehicle mileage accumulation cycles, which must meet or exceed the performance of the current EPA standard based on AMA mileage accumulation. Assuring in-use compliance is the purpose of assessing deterioration during certification; manufacturers take on the burden of demonstrating that this objective will be met as the logical consequence of their new-found flexibility to implement service accumulation procedures of their own design.

The second manufacturer requirement is to demonstrate full-life durability for all emission-related components on the vehicle being certified. Progressive, whole-vehicle emission deterioration may be simulated through bench aging of critical components; nevertheless, the ability of all other emission-related components to perform without failure for the vehicle useful life (or allowed maintenance interval) remains a critical certification requirement. The proposed regulations do not specify how manufacturers are to demonstrate component durability, allowing a number of options for manufacturers. For example, manufacturers might use data from substantially similar components on DDVs that have undergone actual mileage accumulation, data on the performance of components in the field, or manufacturer fleet data. The Agency will coordinate with CARB to ensure that relevant data from the respective organizations are brought to bear in evaluating manufacturer claims of component durability.

The third requirement associated with alternative service accumulation methods is performance of an in-use verification program, or reality check. The intent of this requirement is not to

challenge the validity of certification emission values for families already certified; rather, it is to evaluate the alternative durability procedures themselves, providing an important feedback mechanism to bring about future improvements in the procedures.

Manufacturers could model their reality check program on the EPA Emission Factors program, recruiting vehicles from private owners for testing on the Federal Test Procedure, providing data that could be compared to the DFs for the test engine families that were determined at the time of certification.

The vehicles recruited for the in-use reality check must represent the range of vehicle configurations in each engine family employing the alternative service accumulation approach for determination of the DFs. The Agency notes that this approach differs from that of the California program, which requires only that the in-use vehicles recruited for the check represent the configuration actually used to determine the DF for each engine family. The broader requirement proposed by EPA reflects the Agency's desire to assure the representativeness of DFs determined with alternative service accumulation techniques. This is particularly the case for manufacturers who seek to use additive deterioration factors, an issue that will be discussed subsequently in this section. In all other significant respects, the Federal provisions proposed today are consistent with those considered and approved by the State of California.

The Agency considered, but has not proposed, uniform requirements for design of the reality check, the reality check evaluation criteria, and the remedial measures, that would be applicable to all manufacturers. The task of reconciling such program elements with the concerns of all manufacturers is too complex to resolve in the time remaining for completion of this rule for MY1994 certifications. On the other hand, EPA does not wish to preclude a manufacturer from approaching the Administrator with a proposal that contains all the necessary elements, which can be justified for its own vehicles, and which is clearly a directional improvement over other durability alternatives for predicting in-use deterioration accurately. Thus, for the interim program, the criteria to be applied in the reality check and the remedial measures for any deficiencies unearthed would be the subject of negotiation and agreement between EPA and the manufacturer at the time the alternative program was proposed. However, EPA expects to propose

²⁶ The California program permits the conditional extrapolation of data if mileage accumulation of at least three-quarters of the applicable useful life has occurred. For LDVs and light LDTs, which have 100,000-mile useful lives, a comparable Federal program would require the minimum mileage accumulation of 75,000 miles. For heavy LDTs, with a 120,000-mile useful life, the comparable Federal program would require a minimum 90,000 miles. This action proposes to leave in place the current program of manufacturer-developed LDT DFs and does not propose a standard mileage-accumulation based program for LDTs. Therefore, the minimum AMA mileage for extrapolation to full useful life is not at issue Federally for LDTs, as it is in California.

applying uniform reality check requirements to all manufacturers for the MY1996 and later rule.

C. Enforcement Aspects of Programs Based on Alternative Service Accumulation Methods

Given the critical feedback the in-use reality check might provide to a program based on alternative service accumulation methods in its infancy, EPA is compelled to ensure the fulfillment of the obligation to perform in-use testing. In cases where such a program is employed, certification is proposed to be conditioned upon the performance of an in-use reality check, according to a plan agreed upon by EPA and the manufacturer at the time of certification. Performance of the in-use reality check as agreed, regardless of its outcome, would satisfy this condition.

Under this proposal, a manufacturer's failure to fully execute the in-use verification program will be considered a failure to satisfy the conditions under which a certificate is issued. A vehicle will be considered to be covered by the certificate only if the manufacturer fulfills the conditions upon which the certificate was issued. Thus, failure to satisfy the conditions of the certificate may subject a manufacturer to the imposition of civil penalties. However, the Agency expects to exercise its enforcement discretion in determining whether civil penalties are appropriate. The EPA recognizes that circumstances may arise in which it becomes reasonable to terminate the in-use reality check before all agreed-upon testing would have been completed (e.g., if initial testing were to clearly demonstrate that the deterioration factor applied is unacceptable). The EPA also recognizes that a manufacturer, notwithstanding its best efforts, may fail to perform the required in-use reality check due to circumstances beyond its control. Thus, the Agency expects to consider all relevant factors when determining whether to view a vehicle as not being covered by a certificate based on failure of a manufacturer to fully execute the reality check condition of the certificate.

In addition to enabling future procedural improvements, the in-use reality check information will provide EPA with data regarding any emission problems which might warrant a remedy through recall. While EPA will not expect an advance agreement on the manufacturer's part to automatically recall vehicles based upon this information, such information could certainly assist EPA in better targeting its recall investigations and, hence, more expeditiously executing recall of

vehicles found to be exceeding the standards in-use. This feature provides a strong incentive for manufacturers to put forth their best efforts and engineering judgment toward designing and implementing technically sound and credible alternative programs.

D. Mileage Intervals Between Test Points

Some differences exist between the current Federal and California procedures in terms of mileage intervals between emission tests for durability vehicles. The Agency requires, as a minimum, that manufacturers conduct two complete exhaust emission tests on a DDV: at a mileage not greater than 6250 miles and at the useful life mileage. If a manufacturer chooses to conduct additional emission testing at intermediate mileages, the resulting intervals between test points must all be equal. Test points prompted by scheduled maintenance are ignored in this determination, and the length of both the first and last test intervals may differ somewhat from the standard test interval.

California requires a 5000-mile initial test point and a final test at the useful life point and handles intermediate testing somewhat differently than EPA. Manufacturers must choose between an intermediate testing interval of 5000 miles and intermediate schedules of their own design but which are approved in advance by CARB. Normally, scheduled maintenance must coincide with one of the standard test points. If the latter option is chosen, the manufacturer must estimate the relative contribution of the test mileage intervals and the number of test points on the confidence level of the DF line slope. Approval of the manufacturer's schedule by CARB depends on satisfying criteria placed on this calculation.²⁷ The minimum number of intermediate test points under this option is one (the 50,000-mile point). If the criteria are met, the DF generated by the manufacturer's schedule can be expected to be at least as reliable as the DDV emission test schedule based on equal 5000-mile test intervals.

Based on the validity of the statistical relationships CARB employs, the Agency believes that the CARB test interval procedure option also provides reliability comparable or superior to the EPA equal-interval requirement. Therefore, EPA proposes that

manufacturers may request advance approval by the Administrator of alternative test interval schedules.²⁸ This option should reduce the manufacturer's burden by allowing some DDV testing to be used for satisfying both Federal and CARB requirements.

As an alternative to this element of the proposal, the Agency has considered modifying existing EPA regulations to delete any mileage requirements on DDV testing at mileages intermediate to the two endpoints. This approach might be justified on the basis that EPA currently permits DDV testing at only the two mileage extremes, and if the presumption of linear deterioration is accurate, additional data from any intermediate mileages can only serve to improve statistical confidence beyond that obtained with the two-point linear regression. The Agency has not proposed this change, in the belief that existing policy imposed no additional cost burden on the manufacturers, and that once the decision has been made to test at a given number of intermediate test points, the confidence in the deterioration line is increased even more by spreading those points regularly across the full mileage range. However, EPA solicits comment on both the proposed option and the option to delete the intermediate mileage requirements. Of particular interest are the impact on manufacturer cost, the relevance of policy on removing outlier data, and any potential implications for the accuracy of the resulting DFs.

E. Use of California Data

With adoption of these proposed regulations, EPA expects that California certification data will frequently be carried over to satisfy Federal program requirements, consistent with the carryover provisions of current regulations described in the background section preceding. The proposed Federal options for full-life mileage accumulation, extrapolation of data after vehicles have accumulated 75,000 miles, and alternative service accumulation approaches are sufficiently similar to options in CARB's program that a manufacturer could conduct one durability evaluation to satisfy both California and Federal requirements for a given engine family.

Because EPA and California have very similar standards and regulations applicable to the MY1994 and MY1995 light-duty fleets, the carryover of data implies that many of the same DFs will be used in both programs. However, one aspect of CARB regulations differs from

²⁷ California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles. State of California Air Resources Board, as amended January 22, 1990, p. III-1.

²⁸ See proposed § 86.094-26(a)(4)(i)(D).

the Agency's proposed regulations and could preclude carryover in specific circumstances. California allows "linecrossing": that is, cases where the line determined by the DDV test data may cross over the applicable emission standard prior to full useful life. The Agency has consistently prohibited linecrossing in certification, maintaining that all DDV data should substantiate the ability of the design to meet emission standards throughout the applicable useful life.

California has allowed linecrossing primarily to ease the burden on manufacturers of differences between the Federal and California emission standards. If a manufacturer intended to sell a design in California with a calibration differing only slightly from a design to be sold in other states, the situation could exist where a DDV that met numerically higher Federal standards could linecross the more stringent California standards. To prohibit linecrossing in this circumstance would mean a separate DDV would have to be run for California certification.

Although the 1990 Amendments have brought close compatibility between certain California and Federal motor vehicle emission requirements, CARB regulations still permit linecrossing in some circumstances (e.g., for data carried over from previous model year certifications) in MY1994 and MY1995. The Agency continues to believe that use of linecrossing durability data is inappropriate, and EPA proposes no change to its regulations in this regard. Further, with the matching of California and Federal standards, EPA does not believe any significant economic burden will result. However, comments are requested on the technical and economic appropriateness of this policy, particularly as it pertains to data carried over from previous model year certification programs.

Finally, comments are requested on the appropriateness of EPA's objective to facilitate maximum use of California durability data where technically appropriate and any recommendations to amend these proposed regulations to better meet that intent.

F. Carryover to 1996 and Later Model Years

The Agency intends to propose revised light-duty regulations for durability procedures applicable to MY1996 and beyond. The revised procedures should result in DFs that are more predictive of actual in-use performance than those generated under the current program and should optimize the use of Agency and manufacturer

resources. Until those rules are finalized, the Agency can provide only limited guidance on the potential for carryover of data from the interim program (MY1994 and 1995) to the long-term one (MY1996 and beyond).

For MY1996 and later, the Agency expects to propose to either delete or replace the current AMA cycle used for whole-vehicle mileage accumulation. If this occurs, manufacturers which continue to use the current AMA mileage accumulation procedure should not expect to carry over data from the interim program to MY1996. In addition, the current alternative durability option based on production DDVs has historically been chosen by manufacturers on a very limited basis; EPA may propose deletion of this option from the long-term durability procedures.

On the other hand, EPA does anticipate proposing for MY1996 and beyond a version of the alternative durability option based on manufacturer-defined alternative service accumulation methods that is similar to the one proposed today. This alternative durability program should not differ in its underlying principles and structure from the one proposed today. As discussed previously, however, EPA expects to promulgate uniform requirements for MY1996 and beyond that each manufacturer will employ in the conduct of an in-use reality check. These will include criteria to be used when collecting and analyzing the in-use data and the remedial measures to be applied if the analysis fails to provide to the Administrator's satisfaction support for the manufacturer's claims for the in-use predictive power of its alternative program. During the model years of the interim program, manufacturers that implement a well-conceived alternative durability program based on alternative service accumulation methods will be in the best position to adapt and continue such programs into MY1996 and beyond.

Significant changes to the durability programs of some manufacturers will assuredly result from promulgation of the MY1996 and later rules. Today's interim durability procedures, including provisions for alternative durability programs and the ability to carry over California data, are intended in part to ease the transition from the current program to the long-term one. The Agency will work as expeditiously as possible to propose and finalize its long-term durability proposal and to assist manufacturers in integrating their plans for the interim and long-term programs.

G. Administrator Approval of AMA Modifications

The Agency has received a handful of manufacturer requests to approve alternatives to the AMA for whole-vehicle mileage accumulation that are not substantially similar to the AMA. Similar requests have recently been received and approved by CARB. Because of CARB's action and because of the potential cost impacts of certifying LDVs to the new Tier 1 useful life levels, EPA expects to see more such requests applicable to pending model years.

The Agency considered amending the current regulations to provide criteria for approval of alternative mileage accumulation driving schedules, but has proposed not to do so at this time. Current Agency advisory circulars cover cases where only minor modifications to the AMA are sought.²⁹ For more substantial revisions, the Agency is not prepared to specify schedule modifications that would always be considered significantly more likely than AMA to generate representative DFs (and therefore potentially acceptable) for every manufacturer's designs. To the extent that the Agency concludes from its technical analysis that generally applicable modifications to the AMA cycle are warranted, they will be considered as part of a revised AMA procedure in the MY1996 and later revised durability rulemaking.

For the interim rule, Agency policy on approval of alternative AMA schedules is unchanged. Approval by the Administrator will hinge on a demonstration by the manufacturer that the proposed schedule is substantially more effective in predicting in-use emission deterioration. Significantly amended replacements for the standard AMA that are justified solely on the basis of cost savings or on equivalence to the current AMA will not be approved. To the extent that such cycles merely accelerate the procedure rather than simulating more demanding operating conditions, they could actually suffer a shortfall in effectiveness relative to the current program. To some extent, EPA's concern in this regard increases as the cycle deviates more from the standard cycle. To safeguard the effectiveness of the program, the Agency will consequently scrutinize

²⁹ "Alternative Mileage Accumulation Procedure," Advisory Circular 37A of the Office of Mobile Sources, U.S. EPA, July 22, 1975; "Criteria for Determining the Acceptability of Mileage Accumulation on an Outdoor Chassis Dynamometer," Advisory Circular 35B, April 30, 1982.

justifications for alternative mileage accumulation cycles for evidence of still better correlation to in-use deterioration as the severity of the revision increases.

H. Consideration of Additive Deterioration Factors

In the past, some manufacturers have suggested that DFs should be calculated on an additive, rather than a multiplicative, basis. In this approach, a linear regression would still be performed on the DDV emission data, but the DF would be the difference between the emissions at the useful-life endpoint and the emissions at the 4000-mile point, rather than the ratio. The DF would be added to, rather than multiplied by, the EDV test result. The Agency reviewed this issue in the development of the current heavy-duty engine standards and test procedures and concluded that a multiplicative DF more accurately reflects the deterioration characteristics of actual systems using aftertreatment (e.g., catalyst) technology.³⁰

Some commenters again raised the issue of additive DFs during and following EPA's January 1990 public workshop on revisions to the durability program. The new data provided at that time were limited to selected engine families of only a few manufacturers. The Agency finds the information insufficient to overturn the use of multiplicative DFs as the standard DF calculation methodology.

However, the Agency has proposed permitting use of additive DFs in the interim durability program in one limited circumstance—where a manufacturer has chosen the alternative durability option based on manufacturer-designed service accumulation methods, and where the additive DFs are an integral part of that program's design. Manufacturers selecting this path must demonstrate to EPA's satisfaction that additive DFs provide improved predictive accuracy. The Agency proposes to accept use of additive DFs under these circumstances in part because the manufacturers choosing the alternative service accumulation approach must commit to execute an in-

use reality check. As with all other elements of Federally approved alternative service accumulation programs, the in-use reality check agreed upon by the manufacturer must adequately check the validity of the additive DFs for the range of vehicle configurations in the certified engine family, and not just the configurations used to generate the DF.

I. Determination of Assigned Deterioration Factors for Small Volume Engine Families

Current EPA regulations provide special certification procedures, including durability procedures, for small volume manufacturers (those with annual sales at or below 10,000 vehicles) and small volume families of large manufacturers (one or more families whose combined sales do not exceed 10,000 vehicles for a given manufacturer). In some circumstances, DFs for small-volume certifications are proposed by the manufacturer based on data from other engine families certified by that manufacturer in the past. In other cases, a manufacturer may use DFs assigned by EPA and determined from the Agency's own analysis of deterioration performance across the industry. In either event, some questions arise about how full-life DFs will be determined for small volume certification in MY1994, the first year of the Tier 1 phase-in.

The Tier 1 standards are not phased-in for small volume manufacturers; thus, no small volume manufacturer must produce Tier 1 LDVs until MY1996, but in that year, all LDVs must comply with the new standards. For these manufacturers, DF determinations in the period of the interim durability procedures would continue to be made based on a 50,000-mile useful life; small volume manufacturers who choose to certify to the Tier 1 standards in advance of the MY1996 requirement must certify using DFs derived in accordance with the procedures described in § 86.094-14(c)(7)(i)(C).

On the other hand, designated small-volume families of a large manufacturer must be counted in that manufacturer's determination of Tier 1 phase-in compliance during MY1994 and 1995. Thus, some such families may be certified to Tier 1 standards and may

require determinations of full-life DFs. The Agency anticipates that manufacturers will obtain the necessary historical data for these determinations from California, where full-life Tier 1 standards will be implemented one-year in advance of the Federal Tier 1 standards. Similarly, EPA expects to base its determinations of assigned DFs on the basis of 1993 California data until early MY1994 Federal data become available.

J. Allowable Maintenance Revisions

The Agency proposes revisions to the current list of emission-related components and the allowable maintenance intervals for those components on the basis that shorter intervals are not technologically necessary. Four circumstances, sometimes taken in combination, were considered relevant to the determination that the proposed interval was justified: circumstances if the proposed interval for the applicable component (1) is justified on purely technical grounds; (2) exists in current Federal LDT regulations and is proposed for application to the control of LDV emissions in substantially similar circumstances; (3) is justified based on the length of the recommended minimum maintenance intervals of the affected manufacturers; and (4) has been promulgated and implemented in the California allowable maintenance regulations without a feasibility-based challenge by the manufacturers.

Table 1 shows the proposed revisions to the light-duty allowable maintenance intervals, together with the applicable rationale for each revision. All intervals except the oxygen sensor are proposed to be the new LDV and light LDT full useful life level of 100,000 (100K) miles. The LDV oxygen sensor interval is proposed at 80,000 (80K) miles, the current level applicable to oxygen sensors in LDTs. These intervals are the minimum levels at which adjustment, cleaning, repair, or replacement of the indicated component or system can occur. The interval listed for each component or system also applies to any directly related component of that system (such as a filter, valve, sensor, or actuator). Where an interval is proposed where none was applicable before, the table entry indicates "NA."

³⁰ 48 FR 52170 (November 16, 1983). For more detailed information, refer to the Summary and Analysis of Comments for this rule, EPA Docket Nos. A-81-11, A-81-20, and OMSAPC-79-1.

TABLE 1—PROPOSED REVISIONS TO LIGHT-DUTY ALLOWABLE MAINTENANCE REGULATIONS

Vehicle group	Component or system	From (K)	To (K)	Rationale ¹
Otto-cycle LDT	Supercharger	NA	100	(1, 4)
Diesel-cycle LDT	Exhaust gas recirculation (EGR) system	50	100	(1, 4)
	Supercharger	NA	100	(1, 4)
	Exhaust gas recirculation (EGR) system	50	100	(1, 4)
	Fuel injector tip (cleaning only)	50	100	(1, 4)
Otto-cycle LDV	Catalytic converter	50	100	(3)
	Carburetor	NA	100	(1, 4)
	Catalytic converter	50	100	(2, 4)
	Exhaust gas recirculation (EGR) system	50	100	(2, 4)
	Air injection reaction (AIR) system	50	100	(1, 4)
	Fuel injectors	50	100	(2, 4)
	Electronic control unit (ECU)	50	100	(2, 4)
	Oxygen sensor	50	100	(2, 4)
	Evaporative emission canister	50	80	(2)
	Turbocharger	50	100	(2, 4)
Diesel-cycle LDV	Supercharger	50	100	(2, 4)
	Exhaust gas recirculation (EGR) system	NA	100	(1, 4)
	Fuel injectors	50	100	(1, 4)
	Turbocharger	50	100	(2, 4)
	Electronic control unit (ECU)	50	100	(2, 4)
	Particulate trap or trap oxidizer system	50	100	(2, 4)
	Fuel injector tip (cleaning only)	50	100	(2, 4)
	Catalytic converter	NA	100	(3)
	Supercharger	NA	100	(1, 4)

¹ (1) technical grounds; (2) current Federal LDT requirement; (3) current manufacturers interval; (4) current CARB requirement.

Most of the changes to the LDV allowable maintenance intervals are simple extensions of the current 50,000-mile intervals to the intervals currently applicable to the comparable components on LDT's. In the case of the oxygen sensor, this reflects a change from 50,000 miles to 80,000 miles. In all other cases where the change brings about LDV conformity with the existing LDV intervals, the change is from 50,000 miles to 100,000 miles. The fact that these components function in the LDT environment without maintenance, together with the fact that the LDV and LDT environments for these components are substantially similar, demonstrates that shorter intervals are not technologically necessary.

The 80,000-mile oxygen sensor interval differs from CARB requirements, which allow no oxygen sensor maintenance below 30,000 miles, but conditional use of intervals between 30,000 and 100,000 miles. Intervals between 30,000 and 50,000 miles are acceptable to CARB if production vehicles are equipped with a resetting maintenance indicator that alerts the vehicle operator each time the interval has elapsed and if the manufacturer pays for the first replacement.³¹ Maintenance between 50,000 miles and 100,000 miles is acceptable to CARB, conditioned only on the presence of the resetting maintenance indicator on production vehicles. However, the

Agency believes that all manufacturers currently certify CA vehicles with a 100,000-mile level for oxygen sensors, and they intend to continue this practice. The Agency solicits comments or data on whether this is, in fact, the case. The Agency is therefore considering adopting a 100,000-mile interval for oxygen sensors, applicable to both LDVs and LDTs, in the final rule.

The proposed interval for superchargers (applicable to all four categories of vehicles in the table) matches the existing LDT interval for turbochargers. A supercharger is substantially similar in function to a turbocharger, but the former component functions in the less demanding environment of the intake air stream, while the latter operates in high-temperature exhaust. A less stringent interval would not be justified for the comparable component functioning in a less-stringent environment.

The full-life maintenance interval for EGR systems was made possible in the CARB regulations, and now in the proposed EPA regulations, by technological advances in engine and EGR system design, and in the formulation of fuels. The engines themselves have lower engine-out emission levels than their counterparts of a decade or more ago. Reductions in the sulfur content of diesel fuel mandated to begin October 1, 1993, promise to reduce particulate levels in the engine-out emissions of diesel-cycle vehicles. In gasoline-fueled engines, more NO_x control is accomplished through improved formulations in three-

way catalysts. As a consequence, contemporary designs rely less on EGR for control of NO_x. A smaller percentage of the exhaust must be ported to the EGR valve, the exhaust itself is cleaner, and design improvements maintain higher temperatures in the EGR flow to discourage deposition. In addition, contemporary EGR valves are electronically actuated, providing greater precision, as well as avoiding problems with mechanical components (such as leaking vacuum diaphragms) as found in earlier EGR system designs. Together these factors lower the level of deposits in the valves and reduce the need for maintenance. The Agency understands that at least some manufacturers are proceeding with MY1993 California durability demonstrations with the expectation that no maintenance of the EGR system will be required before 100,000 miles.

Extension of the catalytic converter intervals for Otto-cycle LDVs is justified by the existing full-life interval for catalysts on Otto-cycle LDTs, as discussed above. In the diesel-cycle LDV and LDT environments, manufacturers employ catalytic converters for control of particulate, as an alternative to trap oxidizers. The current trap oxidizer interval for LDTs is 100,000 miles, and EPA maintains that the technological feasibility of particulate control in light-duty applications is thus demonstrated at the 100,000-mile level. Manufacturers seeking to replace trap oxidizers with catalysts in their diesel applications

³¹ The maintenance indicator differs from a malfunction indicator, which is part of the onboard diagnostic system.

should thus achieve the comparable level of maintenance-free performance.

The cleaning of diesel-cycle LDV and LDT fuel injectors are the remaining entries in Table 1 where EPA proposes a requirement that is more stringent than the CARB requirement (100,000 miles, as opposed to 12,500 miles). In current EPA regulations, the cleaning of fuel injector tips for diesel-cycle LDTs is set at 50,000 miles, while all other fuel-injector-related maintenance cannot occur until at least 100,000 miles. The Agency considered setting the diesel-cycle LDV interval for fuel injector tip cleaning at the current LDT level. However, EPA believes that no current light-duty manufacturer includes an injector cleaning requirement below 100,000 miles. On that basis, the LDT interval is proposed to increase from 50,000 miles to 100,000 miles. Given that the LDT application of diesel fuel injection systems is at least as demanding as the LDV application, the Agency concludes that shorter allowable maintenance intervals are not technologically necessary for the LDVs. Table 1 therefore reflects the change to the 100,000-mile tip cleaning interval for both diesel-cycle LDVs and LDTs. This change brings the intervals for tip cleaning and other fuel injector maintenance into conformity; thus, the regulations themselves delete the separate entry for tip cleaning.

In all cases from the table except three (the fuel injector tip-cleaning interval for diesel-cycle LDVs and LDTs, and the oxygen sensor interval for Otto-cycle LDVs), the changes to the allowable maintenance intervals are further justified because the proposed levels have already been implemented in CARB's allowable maintenance regulations; acceptance of, and compliance with, these regulations by manufacturers supports the contention that shorter intervals are not technologically necessary.

V. Economic, Environmental, and Cost-Benefit Impacts

A. Economic Impacts

The costs to the public will be any increased vehicle costs that are attributable to this proposed durability rule. The costs incurred by the manufacturers as a consequence of this proposed durability rule are limited to the costs of running the durability program itself and of reporting the results to EPA.³²

³² Manufacturers may also incur costs in adding or modifying emission control devices in order to meet the Tier 1 emission standards over the applicable useful life levels; however, the Agency accounted for these costs in promulgating the Tier 1

The costs associated with running the durability program are considered to be costs of information collection, and they are therefore detailed in the Information Collection Request (ICR) for this rulemaking.³³ The total annual costs of the program are projected by determining the unit cost of running a single DDV and applying that cost to the number of DDVs projected for a given model year.

The unit cost of running a DDV is made up of several cost elements, including (1) acquisition of the DDV; (2) operating the DDV over the mileage accumulation cycle; (3) performing emission tests on the vehicle; (4) generating test reports; (5) generating reports on the DDV itself; and, (6) the storage of records on the vehicle. For LDVs, the second, third, and fourth cost elements increase under this proposal relative to the current durability program, as a consequence of the increase in the LDV useful life definition. For light LDTs, these same cost elements decrease, because the useful life of this subclass drops from 120,000 miles to 100,000 miles. The degree of increase or decrease is directly proportional to the change in the actual mileage accumulation performed. No heavy LDTs are required to meet the Tier 1 standards in the MY1994-MY1995 period, so their cost elements are unchanged.

In the new ICR analysis for this rule, EPA presumes that, because of the potential savings, essentially all manufacturers will exploit the proposed extrapolation option, and thus, actual mileage accumulation will be curtailed at 75,000 miles for both LDVs and light LDTs. On this basis, the average cost of running an LDV durability vehicle rises from the current level of \$122,100 to \$170,200. Assuming that the standard Self-Approval Durability Program utilizes abbreviated AMA mileage accumulation, the cost of running a light LDT durability vehicle drops from \$198,000 to \$170,200.

Projections for the number of engine families and the number of DDVs in the MY1994-MY1995 period were made in the Tier 1 ICR. The analysis projected an increase in the number of DDVs run

standards themselves; see 56 FR 25724 and the Regulatory Impact Analysis for that rule (EPA Docket A-90-43, item II-F-6).

³³ Supporting Statement for the Amendment to the Information Collection Request Application for Motor Vehicle Emission Certification and Fuel Economy Labeling (OMB No. 2060-0104); Proposed Regulations for Light-Duty Vehicle and Light-Duty Truck 1994 and 1995 Model Year Durability Testing Procedures and 1994 and Later Model Year Allowable Maintenance; Certification Division, Office of Mobile Sources, U.S. Environmental Protection Agency, 22 October 1991.

from the current level of 98 (MY1990) to 152 DDVs in both MY1994 and MY1995. The Agency predicts that approximately 75 percent of these DDVs will be LDVs, 18 percent will be light LDTs, and the balance will be heavy LDTs. Division of the DDVs between Tier 0 and Tier 1 families was based on the phase-in percentages and an analysis of the manufacturers' historical behavior in carrying over emissions data from one model year to the next.

Two aspects of the current proposal, the use of California carryover data and the use of alternative durability programs, lend some uncertainty to the cost projections. Carryover of California data should now become a significant cost factor because promulgation of the Tier 1 rules by EPA brings the light-duty emission standards of the two jurisdictions into close conformity, and the provisions of this proposal were devised to increase consistency between the CARB and Federal durability programs. The California program phases in the Tier 1 standards one year in advance of EPA; many manufacturers are already running DDVs for demonstrating compliance with CARB's Tier 1 standards in MY1993. A manufacturer may seek to comply with the Federal Tier 1 phase-in requirements for MY1994 with the same engine families it certified to the MY1993 California standards. The ability to carry over California data in place of running new Federal DDVs could drive all the unit cost elements for the Federal DDVs to zero. Having already incurred the costs imposed by the California program to run Tier 1 DDVs, there is significant incentive for manufacturers to seek such carryover.

There is also incentive for the manufacturers to employ alternative durability programs based on new service accumulation methods. General Motors, for example, has predicted that it could perform a 100,000-mile alternative durability program at a cost that would be comparable to, or even less than, an AMA-based program at only half that mileage.³⁴ By extension, the 100,000-mile alternative durability program could achieve a cost savings relative to the extrapolated 75,000-mile AMA program. The magnitude of the savings should be at least the difference in the cost between the 75,000-mile extrapolated program and the current 50,000-mile program. Based on the unit

³⁴ Correspondence from S.A. Leonard, Director, Automotive Emission Control, General Motors Environmental Activities Staff, to Robert E. Maxwell, Director, Certification Division, Office of Mobile Sources, U.S. EPA, August 14, 1990 (GM No. FE-4743).

costs for these programs cited above, the savings should therefore be approximately \$48,100 per DDV.

With the basic framework for determining costs already established by the Tier 1 ICR, the major uncertainties in determining the incremental cost impacts of the durability proposal are therefore the degree to which manufacturers carry over California Tier 1 data for a given model year to Federal Tier 1 certifications in the next model year, and the degree to which manufacturers will choose to employ alternative durability programs.

Table 2 projects the change in the mean annual cost of the light-duty durability program for each of the two years of the interim procedures under a number of scenarios, with the MY1990

cost of \$13.8 million as the baseline. Thus, if manufacturers carry over data for 50 percent of their California DDVs and employ no alternative durability programs, the mean annual cost of the program will increase by \$1.3 million from the \$13.8 million baseline dollars (to \$15.1 million). Reductions in the program costs, which are shown in parentheses, occur under a number of the scenarios. For example, if manufacturers carry over 50 percent of their California families and employ alternative durability programs on 75 percent of the remainder, the program costs are estimated to decrease by a modest \$0.7 million, to \$13.1 million. It is important to note, however, that the savings under these scenarios are driven predominantly by the ability to carry over data from the California program,

for which manufacturers will have already run durability vehicles due to the earlier phase-in of the California Tier 1 standards.

The ranges of the two variables were selected by EPA to represent the most extreme cases that might occur. In fact, the Agency believes that manufacturers will seek as much California carryover as possible, and will actually achieve on the order of 90 percent. Based on indications from the manufacturers of their intent to implement alternative durability programs in the applicable timeframe, the likely penetration rate will be between 25 percent and 50 percent. On this basis, the Agency expects the rule to generate a net savings to manufacturers of approximately \$6.5 million.

TABLE 2.—MEAN ANNUAL CHANGE IN TOTAL COST OF THE LIGHT-DUTY DURABILITY PROGRAM IN MILLIONS OF DOLLARS (\$M)

California carryover (percent)	Alternative durability program penetration			
	0%	25%	50%	75%
50	\$1.3 M	\$.7 M	\$.0 M	(\$.7 M)
60	(4.4 M)	(4.7 M)	(5.0 M)	(5.3 M)
90	(6.3 M)	(6.4 M)	(6.6 M)	(6.7 M)
100	(8.4 M)	(8.4 M)	(8.4 M)	(8.4 M)

Estimates of the per-vehicle impact of the proposed regulations may then be obtained by spreading the total cost of a given scenario across the projected new-vehicle fleet size, derived in the Tier 1 Regulatory Impact Analysis, of 12.6 million vehicles. The range of impacts thus obtained is an increase of 10.7 cents per vehicle for the highest-cost scenario (50 percent carryover; no alternative durability programs) to a decrease of 67 cents per vehicle for the lowest-cost scenario (full California carryover, with 75 percent alternative durability program penetration).

These proposed rules are designed to encourage manufacturers to pursue the alternative durability program path Federally, and due to consistency with CARB regulations, in California as well. To the extent that manufacturers use this rule as the basis for implementing alternative durability programs in California where they otherwise would not, manufacturers will also accrue savings in their California certifications that are attributable to the EPA action. The magnitude of these savings would be the unit savings of approximately \$48,100 per DDV applied to each additional conventional DDV avoided in California through use of the alternative program. Although this factor is difficult to predict, it could generate additional savings of as much as \$4 million, based

on the highest carryover rate (100 percent) and the highest penetration rate (75 percent) from the EPA scenarios.

Even though the above analysis indicates a likely positive economic impact from the provisions of this proposal, the magnitude of that benefit is small compared to the related costs of the Tier 1 standards themselves. As noted in the Tier 1 Regulatory Impact Analysis, for example, EPA predicts an increase in LDV vehicle cost of \$157 to provide the hardware necessary to meet the tighter standards over the longer useful life. The impact of the proposed durability rule is also considerably lower than would be expected to affect manufacturer pricing decisions; thus, no impact on the consumer is assessed.

The Agency has not included any increase or decrease in costs associated with the proposed allowable maintenance intervals. The Agency believes that no incremental costs will accrue to the manufacturers from these intervals, over and above any redesign costs that have already been addressed through the costs of conformance with the existing Tier 1 tailpipe regulations. However, EPA solicits comment on the accuracy of this conclusion in the context of this proposed rule.

B. Environmental and Cost-Benefit Impacts

The emission benefits of the Tier 1 standards and the revised useful life definitions were analyzed in conjunction with the Tier 1 rule. The current proposal provides revisions to the testing and administrative procedures that are necessary to determine compliance with the rules already promulgated. No environmental benefit is claimed for these administrative procedures, beyond that already accounted for in the Tier 1 rule.

As noted in the preamble to that earlier rule, Congress mandated the Tier 1 standards and useful life levels in the 1990 Amendments; in so doing, it implicitly judged that the economic, environmental, and cost-benefit implications of those requirements were acceptable. The analysis above indicates that the economic impacts of this new proposal will not change the cost portion of the Tier 1 cost-benefit relationships in any visible manner. The Agency believes that additional costs due to this proposal, if any, will be insignificant. This proposed rule does not claim any emission benefits in addition to those that arise as a result of the Tier 1 standards, therefore the cost-effectiveness implications are minimal. However, the Agency wishes to solicit

comment specifically on the issue of whether this proposal is likely to impose more than insignificant costs on vehicle manufacturers relative to the current durability program.

VI. Public Participation

A. Comments and the Public Docket

EPA welcomes comments on all aspects of this proposed rulemaking. All comments, with the exception of proprietary information, should be directed to the EPA Air Docket Section, Docket No. A-90-24 (see "ADDRESSES"). Commenters who wish to submit proprietary information for consideration should clearly separate such information from other comments by:

- Labeling proprietary information "Confidential Business Information" and
- Sending proprietary information directly to the contact person listed (see "FOR FURTHER INFORMATION CONTACT") and not to the public docket.

This will help insure that proprietary information is not inadvertently placed in the docket. If a commenter wants EPA to use a submission labeled as confidential business information as part of the basis for the final rule, then a nonconfidential version of the document, which summarizes the key data or information, should be sent to the docket.

Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, the submission may be made available to the public without notifying the commenters.

B. Public Hearing

Anyone wishing to present testimony about this proposal at the public hearing (see "DATES") should, if possible, notify the contact person (see "FOR FURTHER INFORMATION CONTACT") at least seven days prior to the day of the hearing. The contact person should be given an estimate of the time required for the presentation of testimony and notification of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the hearing for scheduling those who have not notified the contact earlier. This testimony will be scheduled on a first-come, first-served basis, and will follow the testimony that is arranged in advance.

EPA recommends that approximately 50 copies of the statement or material to be presented be brought to the hearing

for distribution to the audience. In addition, EPA would find it helpful to receive an advance copy of any statement or material to be presented at the hearing at least one week before the scheduled hearing date. This is to give EPA staff adequate time to review such material before the hearing. Such advance copies should be submitted to the contact person listed.

The official records of the hearing will be kept open for 30 days following the hearing to allow submissions of rebuttal and supplementary testimony. All such submittals should be directed to the Air Docket, Docket No. A-90-24 (see "ADDRESSES").

The hearing will be conducted formally, and technical rules of evidence will not apply. Written transcripts of the hearing will be made and a copy thereof placed in the docket. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter recording the proceeding.

VII. Administrative Requirements

A. Administrative Designation

Under Executive Order 12291, EPA must judge whether a regulation is a "major" rule and, therefore, subject to the requirement that a Regulatory Impact Analysis (RIA) be prepared. Since EPA has determined that this regulation is not major, an RIA has not been prepared.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB and any EPA response to those comments are in the public docket for this rulemaking.

B. Reporting and Recordkeeping Requirement

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request document has been prepared by EPA (ICR No. 2060-0104) and a copy may be obtained from Sandy Farmer, Information Policy Branch; EPA; 401 M St., SW. (PM-223Y); Washington, DC 20460 or by calling (202) 260-2740.

Public reporting burden for this collection of information is estimated to be a reduction of 4468 hours per response annually, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch; EPA; 401 M St., SW. (PM-223Y); Washington, DC 20460 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Impact on Small Entities

The Regulatory Flexibility Act of 1990 requires federal agencies to identify potentially adverse impacts of federal regulations upon small entities. In instances where significant impacts are possible on a substantial number of these entities, agencies are required to perform a Regulatory Flexibility Analysis (RFA).

EPA has determined that the regulations being proposed today will not have a significant impact on a substantial number of small entities. This regulation will affect only manufacturers of motor vehicles, a group which does not contain a substantial number of small entities.

Therefore, as required under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this regulation does not have a significant impact on a substantial number of small entities.

VIII. Statutory Authority

The promulgation of these regulations is authorized by sections 202, 203, 205, 206, 207, 208, 215, 216, and 301(a) of the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550, and 7601(a)).

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Air pollution control, Gasoline, Motor vehicles, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: April 14, 1992.

William K. Reilly,
Administrator.

For the reasons set out in the preamble, part 86 of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 86—CONTROL OF AIR POLLUTION FROM NEW AND IN-USE MOTOR VEHICLES AND NEW AND IN-USE MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

1. The authority citation for part 86 is revised to read as follows:

Authority: Secs. 202, 203, 205, 206, 207, 208, 215, 216, 217, and 301(a), Clean Air Act as amended (42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550, 7552, and 7601(a)).

2. The table of contents of subpart A of part 86 is republished for the convenience of the reader to read as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Engines, and for 1985 and Later Model Year New Gasoline-Fueled and Methanol-Fueled Heavy-Duty Vehicles

Sec.

- 86.078-3 Abbreviations.
- 86.078-6 Hearings on certification.
- 86.078-7 Maintenance of records; submittal of information; right of entry.
- 86.079-31 Separate certification.
- 86.079-32 Addition of a vehicle or engine after certification.
- 86.079-33 Changes to a vehicle or engine covered by certification.
- 86.079-36 Submission of vehicle identification numbers.
- 86.079-39 Submission of maintenance instructions.
- 86.080-12 Alternative certification procedures.
- 86.081-8 Emissions standards for 1981 light-duty vehicles.
- 86.082-2 Definitions.
- 86.082-8 Emission standards for 1982 and later light-duty vehicles.
- 86.082-14 Small-volume manufacturer certification procedures.
- 86.082-34 Alternative procedure for notification of additions and changes.
- 86.083-30 Certification.
- 86.084-2 Definitions.
- 86.084-4 Section numbering; construction.
- 86.084-5 General standards; increase in emissions; unsafe conditions.
- 86.084-14 Small-volume manufacturers certification procedures.
- 86.084-15 Emission standards for 1984 model year heavy-passenger cars.
- 86.084-26 Mileage and service accumulation; emission measurements.
- 86.084-40 Automatic expiration of reporting and recordkeeping requirements.
- 86.085-1 General applicability.
- 86.085-2 Definitions.
- 86.085-8 Emission standards for 1985 and later model year light-duty vehicles.
- 86.085-9 Emission standards for 1985 and later model year light-duty trucks.
- 86.085-10 Emission standards for 1985 and later model year gasoline-fueled heavy-duty engines and vehicles.

Sec.

- 86.085-11 Emission standards for 1985 and later model year diesel heavy-duty engines.
- 86.085-13 Alternative Durability Program.
- 86.085-15—86.085-19 [Reserved]
- 86.085-20 Incomplete vehicles, classification.
- 86.085-21 Application for certification.
- 86.085-22 Approval of application for certification; test fleet selections; determinations of parameters subject to adjustment for certification and selective enforcement audit, adequacy of limits, and physically adjustable ranges.
- 86.085-23 Required data.
- 86.085-24 Test vehicles and engines.
- 86.085-25 Maintenance.
- 86.085-27 Special test procedures.
- 86.085-28 Compliance with emission standards.
- 86.085-29 Testing by the Administrator.
- 86.085-30 Certification.
- 86.085-35 Labeling.
- 86.085-37 Production vehicles and engines.
- 86.085-38 Maintenance instructions.
- 86.087-2 Definitions.
- 86.087-8 Emission standards for 1987 light-duty vehicles.
- 86.087-9 Emission standards for 1987 and later model year light-duty trucks.
- 86.087-10 Emission standards for 1987 and later model year gasoline-fueled heavy-duty engines and vehicles.
- 86.087-21 Application for certification.
- 86.087-23 Required data.
- 86.087-25 Maintenance.
- 86.087-28 Compliance with emission standards.
- 86.087-29 Testing by the Administrator.
- 86.087-30 Certification.
- 86.087-35 Labeling.
- 86.087-38 Maintenance instructions.
- 86.088-2 Definitions.
- 86.088-9 Emission standards for 1988 and later model year light-duty trucks.
- 86.088-10 Emission standards for 1988 and 1989 model year gasoline-fueled heavy-duty engines and vehicles.
- 86.088-11 Emission standards for 1988 and later model year diesel heavy-duty engines.
- 86.088-21 Application for certification.
- 86.088-23 Required data.
- 86.088-25 Maintenance.
- 86.088-28 Compliance with emission standards.
- 86.088-29 Testing by the Administrator.
- 86.088-30 Certification.
- 86.088-35 Labeling.
- 86.090-1 General applicability.
- 86.090-2 Definitions.
- 86.090-3 Abbreviations.
- 86.090-5 General standards; increase in emissions; unsafe conditions.
- 86.090-7 Maintenance of records; submittal of information; right of entry.
- 86.090-8 Emission standards for 1990 and later model year light-duty vehicles.
- 86.090-9 Emission standards for 1990 and later model year light-duty trucks.
- 86.090-10 Emission standards for 1990 and later model year Otto-cycle heavy-duty engines and vehicles.

Sec.

- 86.090-11 Emission standards for 1990 and later model year diesel heavy-duty engines and vehicles.
- 86.090-14 Small-volume manufacturers certification procedures.
- 86.090-15 NO_x and particulate banking for heavy-duty engines.
- 86.090-21 Application for certification.
- 86.090-22 Approval of application for certification; test fleet selections; determinations of parameters subject to adjustment for certification and selective enforcement audit, adequacy of limits, and physically adjustable ranges.
- 86.090-23 Required data.
- 86.090-24 Test vehicles and engines.
- 86.090-25 Maintenance.
- 86.090-26 Mileage and service accumulation; emission requirements.
- 86.090-27 Special test procedures.
- 86.090-28 Compliance with emission standards.
- 86.090-29 Testing by the Administrator.
- 86.090-30 Certification.
- 86.090-35 Labeling.
- 86.091-2 Definitions.
- 86.091-7 Maintenance of records; submittal of information; right of entry.
- 86.091-9 Emission standards for 1991 and later model year light-duty trucks.
- 86.091-10 Emission standards for 1991 and later model year Otto-cycle heavy-duty engines and vehicles.
- 86.091-11 Emission standards for 1991 and later model year diesel heavy-duty engines and vehicles.
- 86.091-15 NO_x and particulate averaging, trading, and banking for heavy-duty engines.
- 86.091-21 Application for certification.
- 86.091-23 Required data.
- 86.091-28 Compliance with emission standards.
- 86.091-29 Testing by the Administrator.
- 86.091-30 Certification.
- 86.091-35 Labeling.
- 86.092-1 General applicability.
- 86.092-2 Definitions.
- 86.092-14 Small-volume manufacturers certification procedures.
- 86.092-24 Test vehicles and engines.
- 86.092-26 Mileage and service accumulation; emission measurements.
- 86.092-35 Labeling.
- 86.093-11 Emission standards for 1993 and later model year diesel heavy-duty engines.
- 86.094-1 General applicability.
- 86.094-2 Definitions.
- 86.094-3 Abbreviations.
- 86.094-7 Maintenance of records; submittal of information; right of entry.
- 86.094-8 Emission standards for 1994 and later model year light-duty vehicles.
- 86.094-9 Emission standards for 1994 and later model year light-duty trucks.
- 86.094-11 Emission standards for 1994 and later model year diesel heavy-duty engines and vehicles.
- 86.094-13 Light-duty exhaust durability programs.
- 86.094-14 Small-volume manufacturer certification procedures.

- Sec.
 86.094-15 NO_x and particulate averaging, trading, and banking for heavy-duty engines.
 86.094-21 Application for certification.
 86.094-22 Approval of application for certification; test fleet selections; determinations of parameters subject to adjustment for certification and selective enforcement audit, adequacy of limits, and physically adjustable ranges.
 86.094-23 Required data.
 86.094-24 Test vehicles and engines.
 86.094-25 Maintenance.
 86.094-26 Mileage and service accumulation; emission requirements.
 86.094-28 Compliance with emission standards.
 86.094-30 Certification.
 86.094-35 Labeling.
 86.095-14 Small-volume manufacturers certification procedures.
 86.095-24 Test vehicles and engines.
 86.095-26 Mileage and service accumulation; emission measurements.
 86.095-30 Certification.
 86.095-35 Labeling.
 86.096-8 Emission standards for 1996 and later model year light-duty vehicles.
 86.097-9 Emission standards for 1997 and later model year light-duty trucks.

3. A new § 86.094-1 is proposed to be added to subpart A to read as follows:

§ 86.094-1 General applicability.

(a) The provisions of this subpart generally apply to 1994 and later model year new Otto-cycle and diesel-cycle light-duty vehicles, 1994 and later model year new Otto-cycle and diesel-cycle light-duty trucks, and 1994 and later model year new Otto-cycle and diesel heavy-duty engines. In cases where a provision applies only to a certain vehicle group based on its model year, vehicle class, motor fuel, engine type, or other distinguishing characteristics, the limited applicability is cited in the appropriate section or paragraph.

(b) Optional applicability. A manufacturer may request to certify any heavy-duty vehicle of 10,000 pounds Gross Vehicle Weight Rating or less in accordance with the light-duty truck provisions. Heavy-duty engine or vehicle provisions do not apply to such a vehicle.

(c)-(d) [Reserved]

(e) Small volume manufacturers. Special certification procedures are available for any manufacturer whose projected combined U.S. sales of light-duty vehicles, light-duty trucks, heavy-duty vehicles, and heavy-duty engines in

its product line (including all vehicles and engines imported under the provisions of §§ 85.1505 and 85.1509 of this chapter) are fewer than 10,000 units for the model year in which the manufacturer seeks certification. To certify its product line under these optional procedures, the small-volume manufacturer must first obtain the Administrator's approval. The manufacturer must meet the eligibility criteria specified in § 86.092-14(b) of this subpart before the Administrator's approval will be granted. The small-volume manufacturer's certification procedures are described in § 86.092-14 of this subpart.

(f) Optional procedures for determining exhaust opacity.

(1) The provisions of subpart I of this part apply to tests which are performed by the Administrator, and optionally, by the manufacturer.

(2) Measurement procedures, other than that described in subpart I of this part, may be used by the manufacturer provided the manufacturer satisfies the requirements of § 86.091-23(f) of this subpart.

(3) When a manufacturer chooses to use an alternative measurement procedure it has the responsibility to determine whether the results obtained by the procedure will correlate with the results which would be obtained from the measurement procedure in subpart I of this part. Consequently, the Administrator will not routinely approve or disapprove any alternative opacity measurement procedure or any associated correlation data which the manufacturer elects to use to satisfy the data requirements for subpart I of this part.

(4) If a confirmatory test(s) is performed and the results indicate there is a systematic problem suggesting that the data generated under an optional alternative measurement procedure do not adequately correlate with subpart I of part 86 data, EPA may require that all certificates of conformity not already issued be based on data from subpart I procedures.

4. Section 86.094-2 of subpart A is proposed to be amended by adding in alphabetical order the following definition:

§ 86.094-2 Definitions.

* * * * *

Durability Useful Life means the longest useful life mileage at which a certification exhaust emission standard contained in this part applies. The determination of durability useful life shall reflect any alternative useful life mileages approved by the Administrator under § 86.094-21(f) of this subpart. The determination of durability useful life shall exclude any standard and related useful life mileage for which the manufacturer has obtained a waiver of emission data submission requirements under § 86.094-23(c) of this subpart.

5. A new § 86.094-13 is proposed to be added to subpart A to read as follows:

§ 86.094-13 Light-duty exhaust durability programs.

(a)(1) This section describes the various durability programs available to manufacturers for determining exhaust deterioration factors (DFs) for the certification of 1994 and 1995 model year light-duty vehicles and light-duty trucks. While this section describes many of the important elements of these durability programs, it is not intended as an exhaustive list of all requirements applicable either to these programs or to the certification process.

(2) The durability programs consist of various elements, such as a statement of applicability, a service accumulation method, vehicle/component selection methods, durability-data vehicle compliance requirements, in-use verification requirements, optional elements, data reporting requirements, and additional requirements. Cross references to other sections in this subpart are indicated where appropriate.

(b) The following table summarizes the durability programs available to all manufacturers of light-duty vehicles and light-duty trucks. The Tier 1 and Tier 0 standards cited in the table are those specified in § 86.094-8 of this subpart (for light-duty vehicles) and § 86.094-9 of this subpart (for light-duty trucks). The durability programs described in this section are separate and distinct alternatives, such that determination of an exhaust DF under one program does not require compliance with the requirements of a different durability program.

Class	Standards	Durability program name	Optional elements
Light-duty Vehicles.....	Tier 1.....	Standard AMA.....	Carryover. Extrapolation. Substitute AMA.

Class	Standards	Durability program name	Optional elements
Light-duty Trucks	Tier 0	Production AMA	Carryover
		Alternative Service Accumulation	Extrapolation
		Standard AMA	Substitute AMA
	Tier 1 and Tier 0	Production AMA	Carryover
		Alternative Service Accumulation	Substitute AMA
		Standard Self-Approval	Carryover
		Alternative Service Accumulation	Carryover

(c) *Standard AMA Durability Program*—(1) *Applicability*. The standard AMA durability program is applicable to light-duty vehicles in model years 1994 and 1995.

(2) *Service accumulation method*. The method shall be mileage accumulation performed on whole durability data vehicles, using the Durability Driving Schedule (commonly referred to as the AMA schedule) specified in appendix IV to this part. The provisions of § 86.094-28(a) of this subpart, which include vehicle weight requirements, the duration of mileage accumulation, and the specification of emission tests to be performed during the mileage accumulation, shall apply. Scheduled and unscheduled maintenance may be performed on the vehicle in accordance with the provisions of § 86.094-25 of this subpart.

(3) *Vehicle/component selection method*. Durability data vehicles shall be selected by the Administrator as required in § 86.090-22(a) of this subpart and in accordance with the provisions of § 86.094-24(c)(1) of this subpart. Typically, the Administrator selects one durability-data vehicle to represent each engine-system combination. The selection of durability data vehicles is also governed by § 86.091-7(a)(2)(i)(A) of this subpart, which generally requires that vehicles used for certification must be representative of production vehicles.

(4) *Durability-data vehicle compliance requirements*. Durability-data vehicle compliance requirements for the Standard AMA Durability Program are contained in § 86.094-28(a) of this subpart. These include the method of calculating deterioration factors, line crossing criteria, and related requirements.

(5) *In-use verification*. Manufacturer testing of in-use vehicles subsequent to certification is not a requirement of the Standard AMA Durability Program.

(6) *Optional elements*—(i) *Extrapolation*. Manufacturers selecting the Standard AMA Durability Program may petition the Administrator for the use of extrapolated mileage accumulation data according to the

provisions of § 86.094-26(a)(4) of this subpart for use in certifying light-duty vehicles to the Tier 1 standards of § 86.094-8 of this subpart. If use of extrapolated data is approved, deterioration factors are determined by the method of linear extrapolation described in § 86.094-28(a)(4)(i) of this subpart.

(ii) *Substitute AMA*. Manufacturers selecting the Standard AMA Durability Program may petition the Administrator under § 86.094-26(a)(2)(ii) of this subpart to substitute a different whole-vehicle mileage accumulation schedule for the Durability Driving Schedule (standard AMA) specified in Appendix IV to this part.

(iii) *Carryover and carry-across*. Manufacturers selecting the Standard AMA Durability Program may petition the Administrator for the use of carryover or carry-across mileage accumulation data according to the provisions of § 86.094-24(f) of this subpart. If use of carryover or carry-across data is approved, deterioration factors are determined by the method of linear extrapolation described in § 86.094-28(a)(4)(i) of this subpart.

(7) *Data reporting requirements*. Data reporting requirements for the Standard AMA Durability Program are contained in §§ 86.094-21, 86.094-23(b)(1)(i), and 86.094-26(a)(6)(ii) and (a)(7) of this subpart.

(d) *Production AMA Durability Program*—(1) *Applicability*. The production AMA durability program is applicable to light-duty vehicles in model years 1994 and 1995.

(2) *Service accumulation method*. The method shall be mileage accumulation performed on whole durability data vehicles, using the Durability Driving Schedule (commonly referred to as the AMA schedule) specified in Appendix IV to this part. The provisions of § 86.094-26(a) of this subpart, which include vehicle weight requirements, the duration of mileage accumulation, and the specification of emission tests to be performed during the mileage accumulation, shall apply. Scheduled and unscheduled maintenance may be

performed on the vehicle in accordance with the provisions of § 86.094-25 of this subpart.

(3) *Vehicle/component selection method*. Durability data vehicles shall be selected by the Administrator as required in § 86.090-22(a) of this subpart and in accordance with the provisions of § 86.094-24(h) of this subpart. Typically, the Administrator selects several random production durability-data vehicles, up to a maximum of three vehicles per engine family group.

(4) *Durability-data vehicle compliance requirements*. Durability-data vehicle compliance requirements for the Production AMA Durability Program are contained in § 86.094-28(a)(7). These include the method of calculating deterioration factors, line crossing criteria, and related requirements.

(5) *In-use verification*. The Production AMA Durability Program includes no requirement for manufacturer testing of in-use vehicles subsequent to certification.

(6) *Optional elements*—(i) *Extrapolation*. Manufacturers selecting the Production AMA Durability Program may petition the Administrator for the use of extrapolated mileage accumulation data according to the provisions of § 86.094-26(a)(4) of this subpart for use in certifying light-duty vehicles to the Tier 1 standards of § 86.094-8 of this subpart. If use of extrapolated data is approved, deterioration factors are determined by the method of linear extrapolation described in § 86.094-28(a)(7)(ii)(B) of this subpart.

(ii) *Substitute AMA*. Manufacturers selecting the Production AMA Durability Program may petition the Administrator under § 86.094-26(a)(2)(ii) of this subpart to substitute a different whole-vehicle mileage accumulation schedule for the Durability Driving Schedule (standard AMA) specified in Appendix IV to this part.

(iii) *Carryover and carry-across*. Manufacturers selecting the Production AMA Durability Program may petition

the Administrator for the use of carryover or carry-across mileage accumulation data according to the provisions of § 86.094-24(h)(1)(v) of this subpart. If use of carryover or carry-across data is approved, deterioration factors are determined by the method of linear extrapolation described in § 86.094-28(a)(7)(ii)(B) of this subpart.

(7) Data reporting requirements for the Production AMA Durability Program are contained in §§ 86.094-21, 86.094-23(b)(1)(i), and 86.094-26(a)(6)(ii) and (a)(7) of this subpart.

(8) *Additional requirements.* (i) For engine families subject to the procedures of the Production AMA Durability Program, the manufacturer shall submit deterioration factors to the Administrator for approval to use them for certification. The Administrator shall approve the use of deterioration factors that:

(A) The manufacturer attests are representative of the durability performance of its vehicles in actual field use when maintained according to the manufacturer's maintenance instructions (as limited under § 86.094-25(a)(1) of this subpart), and

(B) Are equal to or greater than the deterioration factors that EPA determines under paragraph (d)(8)(ii) of this section.

(ii) EPA shall determine minimum deterioration factors for engine families subject to the Production AMA Durability Program. This determination shall be based on a procedure of grouping engine families (see § 86.094-24(a) of this subpart) in order to use historical certification data to determine deterioration factors for each engine family group. The historical data shall be updated yearly through the testing of production durability-data vehicles. Test vehicle requirements under these procedures are contained in § 86.094-24(h) of this subpart and compliance requirements are contained in § 86.094-28(a)(7) of this subpart.

(iii) *Request Procedures.* (A) A manufacturer wishing to participate in the Production AMA Durability Program must submit to the Administrator, for each model year, a written request describing the engine families that the manufacturer elects to be included in the program.

(B) The Administrator may declare ineligible any engine family for which the Administrator determines there is unreasonable risk in determining a deterioration factor using the methods of the Production AMA Durability Program. Furthermore, the Administrator may limit the number of engine families within the manufacturer's product line that are

eligible for the Production AMA Durability Program.

(C) Upon approval of the manufacturer's request to participate, the Administrator and the manufacturer may enter into a written agreement prescribing the terms and conditions of the program. This agreement shall be equitable as compared to agreements entered into with other manufacturers. The agreement shall specify:

(1) The engine families to be included in the program and the engine family groups that have been established by the provisions of § 86.094-24(a)(8) and (9) of this subpart.

(2) The procedures for the selection of production durability-data vehicles specified under the provisions of § 86.094-24(h) of this subpart, and

(3) The procedures for the determination of minimum exhaust emission deterioration factors for each engine family group.

(iv) *Withdrawal from Production AMA Durability Program.* (A) Subject to the conditions of paragraphs (d)(8)(iv)(B) through (F) of this section, a manufacturer may, at any time, withdraw all of its product line or separate engine family groups from this program. Only entire engine family groups may be withdrawn.

(B) Once any engine family in an engine family group is certified using deterioration factors determined in the Production AMA Durability Program, the manufacturer shall operate and test the production durability-data vehicles specified in § 86.094-24(h) of this subpart in accordance with the procedures of this part.

(C) The Administrator shall notify the manufacturer if a nonconformity of a category of vehicles within the engine family group is indicated by the production durability data. For the purpose of this paragraph, a nonconformity is determined to exist if:

(1) Any emission-data vehicle within an engine family of the model year most recently certified under the Production AMA Durability Program is projected to exceed an emission standard by applying deterioration factors generated by a production durability-data vehicle within the same engine family, or

(2) Any of the most recent model year's production durability-data vehicle configurations tested under paragraph (d)(8)(iv)(B) of this section line crosses as defined in § 86.094-28(a)(7)(ii)(C) of this subpart. For the purpose of this paragraph, data from identical vehicles will be averaged as under § 86.094-28(a)(4)(i)(A) and (B) of this subpart.

(D) If the Administrator notifies a manufacturer of such a nonconformity, the manufacturer shall submit, by a date

specified by the Administrator, a plan to remedy the nonconformity which is acceptable to the Director, Office of Mobile Sources. For the purpose of this paragraph, the term "remedy the nonconformity" will have the same meaning as it does when it appears in section 207(c)(1) of the Clean Air Act (42 U.S.C. 7541(c)(1)).

(E) The manufacturer shall comply with the terms of the remedial plan approved by the Director, Office of Mobile Sources.

(F) If a manufacturer does not comply with the requirements of paragraph (d)(8)(iv)(B), (d)(8)(iv)(D), or (d)(8)(iv)(E) of this section, the Administrator may deem the certificate of conformity for the affected engine families void ab initio.

(e) *Alternative Service Accumulation Durability Program—(1) Applicability.* The Alternative Service Accumulation Durability Program is applicable to light-duty vehicles and light-duty trucks in model years 1994 and 1995.

(2) *Service accumulation method.* (i) The manufacturer shall propose a service accumulation method for the Alternative Service Accumulation Durability Program, for advance approval by the Administrator. The method shall be consistent with good engineering practice and be designed to accurately predict the deterioration of the vehicle's emissions in actual use over its full useful life.

(ii) Manufacturers may propose service accumulation methods based upon a combination of whole-vehicle mileage accumulation and bench aging of individual components or systems. Bench procedures should simulate the aging of components or systems over the applicable durability useful life as defined in § 86.094-2 of this subpart and should simulate cycles and environments found in actual use. For this purpose, manufacturers may remove the emission-related components, in whole or in part, from the durability vehicle itself and deteriorate them independently. Vehicle testing for the purpose of determining deterioration factors may include the testing of durability vehicles that incorporate such bench-aged components.

(iii) Service accumulation shall be according to the method approved in advance by the Administrator.

(3) *Vehicle/component selection method.* The manufacturer shall propose vehicle/component selection method for the Alternative Service Accumulation Durability Program for advance approval by the Administrator. The vehicle/component selection shall be according to the method approved in

advance by the Administrator. The selection of durability data vehicles and components is also governed by § 86.091-7(a)(2)(i)(A) of this subpart, which generally requires that vehicles and components used for certification must be representative of production vehicles and components.

(4) *Durability-data vehicle compliance requirements.* The manufacturer shall propose procedures for the calculation of deterioration factors and for the determination of vehicle compliance for advance approval by the Administrator. The Administrator may approve the use of such procedures if the manufacturer demonstrates that the resulting deterioration factors are likely to be representative of the in-use performance of the vehicles. The calculation of deterioration factors and the determination of vehicle compliance shall be according to the procedures approved in advance by the Administrator.

(5) *In-use verification.* Manufacturers selecting the Alternative Service Accumulation Durability Program shall agree to perform an in-use verification program, which shall include testing on in-use vehicles from each engine-system combination certified under the program in the years subsequent to certification. The purpose of the in-use verification program is to confirm the adequacy of the manufacturer-designed components of the Alternative Service Accumulation Durability program. The manufacturer shall propose sample sizes, recruitment procedures, testing procedures, optional provisions for the cessation of testing in the event the in-use testing confirms the adequacy of elements of the Alternative Service Accumulation Durability program, and remedies in the event the in-use testing fails to confirm the adequacy of elements of the Alternative Service Accumulation Durability program. These and other elements of in-use verification are subject to advance approval by the Administrator.

(6) *Optional element: Carryover and Carry-across.* Manufacturers selecting the Alternative Service Accumulation Durability Program may petition the Administrator for the conditional use of carryover or carry-across mileage accumulation data according to the provisions of § 86.094-24(f) of this subpart. If use of carryover or carry-across data is approved, deterioration factors are determined by the method described in paragraph (e)(4) of this section.

(7) *Data reporting requirements.* (i) Data reporting requirements for the alternative service accumulation durability program are contained in

§§ 86.094-21, 86.094-23(b)(1)(i), and 86.094-26(a)(6)(ii) and (a)(7) of this subpart.

(ii) In addition to the reporting of deterioration factors determined under paragraph (e)(4) of this section, the manufacturer shall provide reliability data that shows to the Administrator's satisfaction that all emission-related components are designed to operate properly for the durability useful life of the vehicles in actual use (or such shorter intervals as permitted in section § 86.094-25 of this subpart).

(8) *Additional requirements.* (i) The manufacturer shall consolidate the approved versions for each of the required elements of the Alternative Service Accumulation Durability Program into a written agreement that documents the details of the program and the manufacturer's responsibilities. The manufacturer shall submit this agreement for approval by the Administrator as part of the application for certification.

(ii) The manufacturer may amend the written agreement entered into pursuant to paragraph (e)(8)(i) of this section so long as the manufacturer demonstrates to the satisfaction of the Administrator that the proposed amendments to the agreement improve upon the in-use verification portion of the existing agreement. Such amendment to the Alternative Service Accumulation Durability Program agreement is subject to the prior approval of the Administrator.

(iii) The certification requirements described in § 86.094-30(a)(14) of this subpart are applicable.

(f) *Standard Self-Approval Durability Program.* (1) *Applicability.* The Standard Self-Approval Durability Program is applicable to light-duty trucks in the 1994 and 1995 model years.

(2) *Service accumulation method.* The manufacturer shall determine the form and extent of service accumulation used in the Standard Self-Approval Durability Program, according to the provisions of § 86.094-26(b)(2) of this subpart. The method shall be consistent with good engineering practice and be designed to evaluate the mechanisms that are expected to cause deterioration of the vehicle's emissions over its full useful life.

(3) *Vehicle/component selection method.* The manufacturer shall determine the vehicle/component selection method for use in the Standard Self-Approval Durability Program according to the provisions of § 86.094-24(c)(2) of this subpart. Manufacturers shall select the vehicles, engines, subsystems, or components for each engine-system so that their emissions

deterioration characteristics may be expected to represent those of in-use vehicles, based on good engineering judgement. The selection of durability data vehicles or components is also governed by § 86.091-7(a)(2)(i)(A) of this subpart, which generally requires that vehicles and components used for certification must be representative of production vehicles and components.

(4) *Durability-data vehicle compliance requirements.* Durability-data vehicle compliance requirements for the Standard Self-approval Durability Program are contained in § 86.094-28(b) of this subpart. These include the method of calculating deterioration factors, line crossing criteria, and related requirements.

(5) *In-use verification.* The Standard Self-Approval Durability Program includes no requirement for manufacturer testing of in-use vehicles subsequent to certification.

(6) *Data reporting requirements.* Data reporting requirements for the Standard Self-Approval Durability Program are contained in §§ 86.094-21, 86.094-23(b)(1)(ii), and 86.094-26(d) of this subpart.

(7) *Additional requirement.* The Administrator does not approve the test procedures for establishing exhaust emission deterioration factors. The manufacturer shall submit these procedures and determinations as required in § 86.094-21(b)(5)(i)(A) of this subpart.

(g) *Assigned Deterioration Factor Durability Program—(1) Applicability—*

(i) *Small volume manufacturers.* The assigned DF durability program is applicable to light-duty vehicles and light-duty trucks certified under the small volume manufacturer provisions of §§ 86.094-1(e) and 86.094-14(b) of this subpart.

(ii) *Small volume engine families.* The assigned DF durability program is available to light-duty vehicles and light-duty trucks certified under the small volume engine family provisions of § 86.094-24(e)(2) of this subpart.

(2) *Determination of deterioration factors.* No service accumulation method or vehicle/component selection method are required. Deterioration factors are proposed by the manufacturer or assigned by the Administrator based on the provisions of § 86.094-14(c)(7)(i)(C) of this subpart.

(3) *In-use verification.* The Assigned Deterioration Factor Durability Program includes no requirement for manufacturer testing of in-use vehicles subsequent to certification.

(4) *Data reporting requirements.* Data reporting requirements for the Assigned

DF Durability Program are contained in § 86.094-14(c)(4), (c)(6), and (c)(11)(ii) of this subpart.

6. A new § 86.094-14 is proposed to be added to subpart A to read as follows:

§ 86.094-14 Small-volume manufacturers certification procedures.

Section 86.094-14 includes text that specifies requirements that differ from § 86.092-14. Where a paragraph in § 86.092-14 is identical and applicable to § 86.094-14, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.092-14." Where a corresponding paragraph of § 86.092-14 is not applicable, this is indicated by the statement "[Reserved]."

(a) The small-volume manufacturers certification procedures described in paragraphs (b) and (c) of this section are optional. Small-volume manufacturers may use these optional procedures to demonstrate compliance with the general standards and specific emission requirements contained in this subpart.

(b)(1) The optional small-volume manufacturers certification procedures apply to light-duty vehicles, light-duty trucks, heavy-duty vehicles, and heavy-duty engines produced by manufacturers with U.S. sales, including all vehicles and engines imported under the provisions of §§ 85.1505 and 85.1509 of this chapter (for the model year in which certification is sought) of fewer than 10,000 units (Light-Duty Vehicles, Light-Duty Trucks, Heavy-Duty Vehicles and Heavy-Duty Engines combined).

(2) For the purpose of determining the applicability of paragraph (b)(1) of this section, the sales the Administrator shall use shall be the aggregate of the projected or actual sales of those vehicles and/or engines in any of these groupings:

(i) Vehicles and/or engines produced by two or more firms, one of which is 10 percent or greater part owned by another;

(ii) Vehicles and/or engines produced by any two or more firms if a third party has equity ownership of 10 percent or more in each of the firms;

(iii) Vehicles and/or engines produced by two or more firms having a common corporate officer(s) who is (are) responsible for the overall direction of the companies;

(iv) Vehicles and/or engines imported or distributed by all firms where the vehicles and/or engines are manufactured by the same entity and the importer or distributor is an authorized agent of the entity.

(3) If the aggregated sales, as determined in paragraph (b)(2) of this section are less than 301 units, the

manufacturers in the aggregated relationship may certify under the provisions in this section that apply to manufacturers with sales of less than 301 units.

(4) If the aggregated sales, as determined in paragraph (b)(2) of this section are greater than 300 but fewer than 10,000 units, the manufacturers in the aggregated relationship may certify under the provisions in this section that apply to manufacturers with sales from and including 301 through 9,999 motor vehicles and motor vehicles engines per year.

(5) If the aggregated sales, as determined in paragraph (b)(2) of this section are equal to or greater than 10,000 units, then the manufacturers involved in the aggregated relationship will be allowed to certify a number of units under the small-volume engine family certification procedures (reference § 86.094-24(e) of this subpart) in accordance with the criteria identified in paragraphs (b)(5)(i) through (iii) of this section.

(i) If a manufacturer purchases less than 50 percent of another manufacturer, each manufacturer retains its right to certify 9,999 units using the small-volume engine family certification procedures.

(ii) If a manufacturer purchases 50 percent or more of another manufacturer, the manufacturer with the over 50 percent interest must share, with the manufacturer it purchased, its 9,999 units under the small-volume engine family certification procedures.

(iii) In a joint venture arrangement (50/50 ownership) between two manufacturers, each manufacturer retains its eligibility for 9,999 units under the small-volume engine family certification procedures, but the joint venture must draw its maximum 9,999 units from the units allocated to its parent manufacturers.

(c) Small-volume manufacturers shall demonstrate compliance with the applicable sections of this subpart. The appropriate model year of the applicable sections detailed in paragraphs (c)(1) through (15) of this section shall be determined in accordance with § 86.084-4 of this subpart.

(1) Sections 86.094-1, 86.094-2, 86.094-3, 86.084-4, 86.090-5, 86.078-6, 86.094-7, and 86.094-8, through 86.094-11 of this subpart are applicable.

(2) Section 86.080-12 of this subpart is not applicable.

(3) Section 86.094-13, 86.094-14, 86.084-15, and 86.085-20 of this subpart are applicable.

(4) Small-volume manufacturers shall include in their records all of the information that EPA requires in

§ 86.094-21 of this subpart. This information will be considered part of the manufacturer's application for certification. However, the manufacturer is not required to submit the information to the Administrator unless the Administrator requests it.

(5) Section 86.094-22 of this subpart is applicable except as noted below.

(i) Small-volume light-duty vehicle and light-duty truck manufacturers may satisfy the requirements of paragraph (e) of § 86.094-22 of this subpart by including a statement of compliance on adjustable parameters in the application for certification. In the statement of compliance the manufacturer shall state that the limits, stops, seals, or other means used to inhibit adjustment have been designed to accomplish their intended purpose based on good engineering practice and past experience. If the vehicle parameter is adjustable the vehicle must meet emission standards with the parameter set any place within the adjustable range (reference § 86.094-21 of this subpart).

(ii) [Reserved]

(6) Section 86.094-23 of this subpart is applicable.

(7) Section 86.094-24 of this subpart is applicable except as noted below.

(i) Small-volume manufacturers may satisfy the requirements of § 86.094-24(b) and (c) of this subpart by:

(A) Emission-data. Selecting one emission-data test vehicle (engine) per engine family by the worst-case emissions criteria in accordance with paragraphs (c)(7)(i)(A) (1) through (3) of this section.

(1) *Light-duty vehicles and light-duty trucks.* The manufacturer shall select the vehicle with the heaviest equivalent test weight (including options) within the engine family. Then within that vehicle the manufacturer shall select, in the order listed, the highest road load power, largest displacement, the transmission with the highest numerical final gear ratio (including overdrive), the highest numerical axle ratio offered in the engine family, and the maximum fuel flow calibration.

(2) *Heavy-duty Otto-cycle engines.* The manufacturer shall select one emission-data engine first based on the largest displacement within the engine family. Then within the largest displacement the manufacturer shall select, in the order listed, highest fuel flow at the speed of maximum rated torque, the engine with the most advanced spark timing, no EGR or lowest EGR flow, and no air pump or lowest actual flow air pump.

(3) *Heavy-duty diesel engines.* The manufacturer shall select one emission-data engine based on the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed.

(B) Testing light-duty vehicles or light-duty truck emission-data vehicles at any service accumulation distance of at least 2,000 miles (3,219 kilometers) or, catalyst equipped heavy-duty emission-data engines at any service accumulation time of at least 62 hours, or non-catalyst equipped heavy-duty engine emission-data engines at any service accumulation time determined by the manufacturer to result in stabilized emissions. The emission performance of the emission-data vehicle or engine must be stabilized prior to emission testing.

(C) Durability data. Satisfying the durability-data requirements by complying with the applicable procedures in paragraphs (c)(7)(i)(C) (1) through (4) of this section.

(1) Manufacturers with aggregated sales of less than 301 motor vehicles and motor vehicle engines per year may use assigned deterioration factors that the Administrator determines and prescribes. The factors will be the Administrator's estimate, periodically updated and published in an advisory letter or advisory circular, of the 70th percentile deterioration factors calculated using the industry-wide data base of previously completed durability-data vehicles or engines used for certification. However, the manufacturer may, at its option, accumulate miles (hours) on a durability-data vehicle (engine) and complete emission tests for the purpose of establishing its own deterioration factors.

(2)(i) Manufacturers with aggregated sales from and including 301 through 9,999 motor vehicles and motor vehicle engines per year certifying light-duty vehicle exhaust emissions from vehicles equipped with proven emission control systems shall use assigned deterioration factors that the manufacturer determines based on its good engineering judgment. However, the manufacturer may not use deterioration factors less than either the average or 70th percentile of all of that manufacturer's deterioration factor, whichever is less. These minimum deterioration factors shall be calculated according to procedures in paragraph (c)(7)(i)(C)(2)(i), of this section. If the manufacturer does not have at least two data points to calculate these manufacturer specific average deterioration factors, then the deterioration factors shall be no less than the EPA supplied industry-wide deterioration factors. However, the

manufacturer may, at its option, accumulate miles on a durability-data vehicle and complete emission tests for the purpose of establishing its own deterioration factors.

(ii) The manufacturer's minimum deterioration factors shall be calculated using the deterioration factors from all engine families, within the same vehicle/engine-fuel usage category (e.g., gasoline-fueled light-duty vehicle, etc.), previously certified to the same emission standards. The manufacturer shall use only deterioration factors engine families previously certified by the manufacturer and the deterioration factors shall not be included in the calculation more than once. The deterioration factors for each pollutant shall be calculated separately. The manufacturer may, at its option, limit the deterioration factors used in the calculation of the manufacturer's minimum deterioration factors to those from all similar systems to the system being certified if sufficient data (i.e., from at least two certified systems) exists. All data eligible to be grouped as similar system data shall be used in calculating similar system deterioration factors. Any deterioration factors used in calculating similar system deterioration factors shall not be included in calculating the manufacturer's minimum deterioration factors used to certify any of the manufacturer's remaining vehicle systems.

(3) Manufacturers with aggregated sales from 301 through 9,999 motor vehicles and motor vehicle engines and certifying light-duty vehicle exhaust emissions from vehicles equipped with unproven emission control systems shall use deterioration factors that the manufacturer determines from official certification durability data generated by vehicles from engine families representing a minimum of 25 percent of the manufacturer's sales equipped with unproven emission control systems. The sales projections are to be based on total sales projected for each engine/system combination. The durability programs applicable to such manufacturers for this purpose shall be the standard AMA, the production AMA and the alternative service accumulation durability programs of § 86.094-13 of this subpart. The durability-data vehicle (engine) mileage accumulation and emission tests are to be conducted according to § 86.094-13 of this subpart. The manufacturer must develop deterioration factors by generating durability data in accordance with § 86.094-13 of this subpart on a minimum of 25 percent of the manufacturer's projected sales (by

engine/system combination) that is equipped with unproven emission control systems. The manufacturer must complete the 25 percent durability requirement before the remainder of the manufacturer's sales equipped with unproven emission control systems is certified using manufacturer-determined assigned deterioration factors. Alternatively, any of these manufacturers may, at their option, accumulate miles on durability-data vehicles and complete emission tests for the purpose of establishing their own deterioration factors on the remaining sales.

(4) For light-duty vehicle, light-duty truck, and heavy-duty vehicle evaporative emissions and light-duty truck, and heavy-duty engine exhaust emissions, deterioration factors shall be determined in accordance with § 86.094-24 of this subpart.

(ii) Section 86.094-24 (d) and (e) of this subpart are not applicable.

(8) Section 86.094-25 of this subpart is applicable to maintenance performed on durability-data light-duty vehicles, light-duty trucks, heavy-duty vehicles, and heavy-duty engines when the manufacturer completes durability-data vehicles or engines; § 86.087-38 of this subpart is applicable to the recommended maintenance the manufacturer includes in the maintenance instructions furnished the purchasers of new motor vehicles and new motor vehicle engines under § 86.087-38 of this subpart.

(9)(i) Section 86.094-26 of this subpart is applicable if the manufacturer completes durability-data vehicles or engines.

(ii) Section 86.090-27 of this subpart is applicable.

(10) Sections 86.094-28 and 86.091-29 of this subpart are applicable.

(11)(i) Section 86.094-30 of this subpart is applicable, except for paragraph (a)(2) and (b) of that section. In the place of these paragraphs, small-volume manufacturer shall comply with paragraphs (c)(11) (ii) through (v) of this section, as shown below.

(ii) Small-volume manufacturers shall submit an application for certification containing the elements contained in paragraphs (c)(11)(ii) (A) through (E) of this section.

(A) The names, addresses, and telephone numbers of the persons the manufacturer authorizes to communicate with us.

(B) A brief description of the vehicles (or engines) covered by the certificate (the manufacturers' sales data book or advertising, including specifications, may satisfy this requirement for most

manufacturers). The description shall include, as a minimum, the items listed in paragraphs (c)(11)(ii)(B) (7) through (18) of this section as applicable.

(1) Engine evaporative family names and vehicle (or engine) configurations.

(2) Vehicle carlines or engine models to be listed on the certificate of conformity.

(3) The test weight and horsepower setting for each vehicle or engine configuration.

(4) Projected sales.

(5) Combustion cycle.

(6) Cooling mechanism.

(7) Number of cylinders.

(8) Displacement.

(9) Fuel system type.

(10) Number of catalytic converters, type, volume, composition, surface area, and total precious metal loading.

(11) Method of air aspiration.

(12) Thermal reactor characteristics.

(13) Suppliers' and/or manufacturers' name and model number of any emission related items of the above, if purchased from a supplier who uses the items in its own certified vehicles(s) or engine(s).

(14) A list of emission component part numbers.

(15) Drawings, calibration curves, and descriptions of emission related components, including those components regulated under paragraph (e) of § 86.085-22 of this subpart, and schematics of hoses and other devices connecting these components.

(16) Vehicle adjustments or modifications necessary for light-duty trucks to assure that they conform to high-altitude standards.

(17) A description of the light-duty vehicles and light-duty trucks which are exempted from the high-altitude emission standards.

(18) Proof that the manufacturer has obtained or entered an agreement to purchase, when applicable, the insurance policy, required by § 85.1510(b) of this chapter. The manufacturer may submit a copy of the insurance policy or purchase agreement as proof that the manufacturer has obtained or entered an agreement to purchase the insurance policy.

(C) The results of all emission tests the manufacturer performs to demonstrate compliance with the applicable standards.

(D)(1) The following statement signed by the authorized representative of the manufacturer: "The vehicles (or engines) described herein have been tested in accordance with (list of the applicable subparts A, B, D, I, M, N, or P) of part 86, title 40, United States Code of Federal Regulations, and on the basis of those tests are in conformance with that

subpart. All of the data and records required by that subpart are on file and are available for inspection by the EPA Administrator. We project the total U.S. sales of vehicles (engines) subject to this subpart (including all vehicles and engines imported under the provisions of 40 CFR 85.1505 and 85.1509 to be fewer than 10,000 units."

(2) A statement as required by and contained in paragraph (c)(5) of this section signed by the authorized representative of the manufacturer.

(3) A statement that the vehicles or engines described in the manufacturer's application for certification are not equipped with auxiliary emission control devices which can be classified as a defeat device as defined in § 86.082-2 of this subpart.

(4) A statement of compliance with section 206(a)(3) of the Clean Air Act (U.S.C. 7525(a)(3)).

(5) A statement that, based on the manufacturer's engineering evaluation and/or emission testing, the light-duty vehicles comply with emission standards at high altitude unless exempt under paragraph § 86.094-8(h) of this subpart.

(6) A statement that, based on the manufacturer's engineering evaluation and/or emission testing, the light-duty trucks sold for principle use at designated high-altitude locations comply with the high-altitude emission requirements and that all other light-duty trucks are at least capable of being modified to meet high-altitude standards unless exempt under § 86.094-9(g)(2) of this subpart.

(7) A statement affirming that the manufacturer will provide a list of emission and emission-related service parts, including part number designations and sources of parts, to the vehicle purchaser for all emission and emission-related parts which might affect vehicle emission performance throughout the useful life of the vehicle. Secondly, it must state that qualified service facilities and emission-related repair parts will be conveniently available to serve its vehicles. In addition, if service facilities are not available at the point of sale or distribution, the manufacturer must indicate that the vehicle purchaser will be provided information identifying the closest authorized service facility to the point of sale, if in the United States, or the closest authorized service facility to the point of distribution to the ultimate purchaser if the vehicle was purchased outside of the United States by the ultimate purchaser. Such information should also be made available to the Administrator upon request.

(E) Manufacturers utilizing deterioration factors determined by the manufacturer based on its good engineering judgment (reference paragraph (c)(7)(i)(C)(2) of this section) shall provide a description of the method(s) used by the manufacturer to determine the deterioration factors.

(iii) If the manufacturer meets requirements of this subpart, the Administrator will issue a certificate of conformity for the vehicles or engines described in the application for certification.

(iv) The certificate will be issued for such a period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary to assure that any vehicle or engine covered by the certificate will meet the requirements of the Act and of this subpart.

(v)(A) If, after a review of the statements and descriptions submitted by the manufacturer, the Administrator determines that the manufacturer has not met the applicable requirements, the Administrator shall notify the manufacturer in writing of his intention to deny certification, setting forth the basis for his determination. The manufacturer may request a hearing on the Administrator's determination.

(B) If the manufacturer does not request a hearing or present the required information the Administrator will deny certification.

(12) Sections 86.079-31 and 86.079-32 of this subpart are not applicable.

(13) Under § 86.079-33 of this subpart, small-volume manufacturers are covered by paragraphs (c)(13) (i) and (ii) of this section.

(i) Small-volume manufacturers may make production changes (running changes) without receiving the Administrator's prior approval. The manufacturer shall assure (by conducting emission tests as it deems necessary) that the affected vehicles (engines) remain in compliance with the requirements of this part.

(ii) The manufacturer shall notify the Administrator within seven days after implementing any production related change (running change) that would affect vehicle emissions. This notification shall include any changes to the information required under paragraph (c)(11)(ii) of this section. The manufacturer shall also amend as necessary its records required under paragraph (c)(4) of this section to confirm with the production design change.

(14) Section 86.082-34 of this subpart is not applicable.

(15) Sections 86.094-35, 86.079-36, 86.085-37, 86.087-38 and 86.079-39 of this subpart are applicable.

7. Section 86.094-21 of subpart A is proposed to be amended by revising paragraphs (b)(5)(i)(C) through (b)(7) to read as follows:

§ 86.094-21 Application for certification.

(b)(5)(i)(C) through (b)(5)(iii) [Reserved]. For guidance see § 86.091-21.

(b)(5)(iii)(A) For each light-duty vehicle engine family, each light-duty truck engine family and each heavy-duty engine family, a statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(b)(5)(iii)(B) through (b)(6)(i)(B) [Reserved]. For guidance see § 86.091-21.

(b)(6)(i)(C) The manufacturer may at any time during production elect to change the level of any family particulate emission limit(s) by submitting the new limit(s) to the Administrator and by demonstrating compliance with the limit(s) as described in §§ 86.094-2 and 86.094-28(b)(5)(i) of this subpart.

(b)(6)(ii) through (b)(7) [Reserved]. For guidance see § 86.091-21.

8. A new § 86.094-22 is proposed to be added to subpart A to read as follows:

§ 86.094-22 Approval of application for certification; test fleet selections; determinations of parameters subject to adjustment for certification and selective enforcement audit, adequacy of limits, and physically adjustable ranges.

(a) After a review of the application for certification and any other information which the Administrator may require, the Administrator may approve the application and select a test fleet in accordance with § 86.094-24 of this subpart.

(b) The Administrator may disapprove in whole or in part an application for certification for reasons including incompleteness, inaccuracy, inappropriate proposed mileage (or service) accumulation procedures, test equipment, or fuel, and incorporation of defeat devices in vehicles (or on engines) described by the application.

(c) Where any part of an application is rejected, the Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection.

Within 30 days following receipt of such notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after the review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078-6 of this subpart with respect to such issue.

(d)(1) The Administrator does not approve the test procedures for establishing the evaporative emission deterioration factors for light-duty vehicles and light-duty trucks. The manufacturer shall submit the procedures as required in § 86.094-21(b)(4)(i) of this subpart prior to the Administrator's selection of the test fleet under § 86.094-24(b)(1) of this subpart and if such procedures will involve testing of durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.094-24(c)(1) of this subpart, prior to initiation of such testing.

(2) Heavy-duty engines only. The Administrator does not approve the test procedures for establishing exhaust emission deterioration factors. The manufacturer shall submit these procedures and determinations as required in § 86.094-21(b)(5)(i) of this subpart prior to determining the deterioration factors.

(3) Heavy-duty vehicles equipped with gasoline-fueled or methanol-fueled engines only. The Administrator does not approve the test procedures for establishing the evaporative emission deterioration factors. The test procedure will conform to the requirements in § 86.094-23(b)(3) of this subpart.

(e) When the Administrator selects emission-data vehicles for the test fleet, he will at the same time determine those vehicle or engine parameters which will be subject to adjustment for certification, Selective Enforcement Audit and Production Compliance Audit testing, the adequacy of the limits, stops, seals, or other means used to inhibit adjustment, and the resulting physically adjustable ranges for each such parameter and notify the manufacturer of his determinations.

(1)(i) Except as noted in paragraph (e)(1)(iv) of this section, the Administrator may determine to be subject to adjustment the idle fuel-air mixture parameter on Otto-cycle vehicles (or engines) (carbureted or fuel-

injected); the choke valve action parameter(s) on carbureted, Otto-cycle vehicles (or engines); or any parameter on any vehicle (or engine) (Otto-cycle or diesel) which is physically capable of being adjusted, may significantly affect emissions, and was not present on the manufacturer's vehicles (or engines) in the previous model year in the same form and function.

(ii) The Administrator may, in addition, determine to be subject to adjustment any other parameters on any vehicle or engine which is physically capable of being adjusted and which may significantly affect emissions. However, the Administrator may do so only if he has previously notified the manufacturer that he might do so and has found, at the time he gave this notice, that the intervening period would be adequate to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period. In no event will this notification be given later than September 1 of the calendar year two years prior to the model year.

(iii) In determining the parameters subject to adjustment the Administrator will consider the likelihood that, for each of the parameters listed in paragraphs (e)(1)(i) and (ii) of this section, settings other than the manufacturer's recommended setting will occur on in-use vehicles (or engines). In determining likelihood, the Administrator may consider such factors as, but not limited to, information contained in the preliminary application, surveillance information from similar in-use vehicles (or engines), the difficulty and cost of gaining access to an adjustment, damage to the vehicle (or engine) if an attempt is made to gain such access and the need to replace parts following such attempt, and the effect of settings other than the manufacturer's recommended setting on vehicle (or engine) performance characteristics including emission characteristics.

(iv) Manual chokes of heavy-duty engines only will not be considered a parameter subject to adjustment under the parameter adjustment requirements.

(2)(i) The Administrator shall determine a parameter to be adequately inaccessible or sealed if:

(A) In the case of an idle mixture screw, the screw is recessed within the carburetor casting and sealed with lead, thermosetting plastic, or an inverted elliptical spacer or sheared off after adjustment at the factory, and the inaccessibility is such that the screw cannot be accessed and/or adjusted

with simple tools in one-half hour or for \$20 (1978 dollars) or less.

(B) In the case of a choke bimetal spring, the plate covering the bimetal spring is riveted or welded in place, or held in place with nonreversible screws.

(C) In the case of a parameter which may be adjusted by elongating or bending adjustable members (e.g., the choke vacuum break), the elongation of the adjustable member is limited by design or, in the case of a bendable member, the member is constructed of a material which when bent would return to its original shape after the force is removed (plastic or spring steel materials).

(D) In the case of any parameter, the manufacturer demonstrates that adjusting the parameter to settings other than the manufacturer's recommended setting takes more than one-half hour or costs more than \$20 (1978 dollars).

(ii) The Administrator shall determine a physical limit or stop to be an adequate restraint on adjustability if:

(A) In the case of a threaded adjustment, the threads are terminated, pinned or crimped so as to prevent additional travel without breakage or need for repairs which take more than one-half hour or cost more than \$20 (1978 dollars).

(B) The adjustment is ineffective at the end of the limits of travel regardless of additional forces or torques applied to the adjustment.

(C) The manufacturer demonstrates that travel or rotation limits cannot be exceeded with the use of simple and inexpensive tools (screwdriver, pliers, open-end or box wrenches, etc.) without incurring significant and costly damage to the vehicle (or engine) or control system or without taking more than one-half hour or costing more than \$20 (1978 dollars).

(iii) If manufacturer service manuals or bulletins describe routine procedures for gaining access to a parameter or for removing or exceeding a physical limit, stop, seal or other means used to inhibit adjustment, or if surveillance data indicate that gaining access, removing, or exceeding is likely, paragraphs (e)(2)(i) and (ii) of this section shall not apply for that parameter.

(iv) In determining the adequacy of a physical limit, stop, seal, or other means used to inhibit adjustment of a parameter not covered by paragraph (e)(2)(i) or (ii) of this section, the Administrator will consider the likelihood that it will be circumvented, removed, or exceeded on in-use vehicles. In determining likelihood, the Administrator may consider such factors as, but not limited to, information contained in the preliminary

application; surveillance information from similar in-use vehicles (or engines); the difficulty and cost of circumventing, removing, or exceeding the limit, stop, seal, or other means; damage to the vehicle (or engine) if an attempt is made to circumvent, remove, or exceed it and the need to replace parts following such attempt; and the effect of settings beyond the limit, stop, seal, or other means on vehicle (or engine) performance characteristics other than emission characteristics.

(3) The Administrator shall determine two physically adjustable ranges for each parameter subject to adjustment:

(i)(A) In the case of a parameter determined to be adequately inaccessible or sealed, the Administrator may include within the physically adjustable range applicable to testing under this subpart (certification testing) all settings within the production tolerance associated with the nominal setting for that parameter, as specified by the manufacturer in the preliminary application for certification.

(B) In the case of other parameters, the Administrator shall include within this range all settings within physical limits or stops determined to be adequate restraints on adjustability. The Administrator may also include the production tolerances on the location of these limits or stops when determining the physically adjustable range.

(ii)(A) In the case of a parameter determined to be adequately inaccessible or sealed, the Administrator shall include within the physically adjustable range applicable to testing under subparts G or K of this part (Selective Enforcement Audit and Production Compliance Audit) only the actual settings to which the parameter is adjusted during production.

(B) In the case of other parameters, the Administrator shall include within this range all settings within physical limits or stops determined to be adequate restraints on adjustability, as they are actually located on the test vehicle (or engine).

(f)(1) If the manufacturer submits the information specified in § 86.090-21(b)(1)(ii) of this subpart in advance of its full preliminary application for certification, the Administrator shall review the information and make the determinations required in paragraph (e) of this section within 90 days of the manufacturer's submittal.

(2) The 90-day decision period is exclusive of the elapsed time during which EPA may request additional information from manufacturers regarding an adjustable parameter and the receipt of the manufacturers' response(s).

(g) Within 30 days following receipt of notification of the Administrator's determinations made under paragraph (e) of this section, the manufacturer may request a hearing on the Administrator's determinations. The request shall be in writing, signed by an authorized representative of the manufacturer, and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078-6 of this subpart with respect to such issue.

9. Section 86.094-23 of subpart A is proposed to be amended by revising paragraph (b)(1)(ii) to read as follows:

§ 86.094-23 Required data.

* * * * *

(b)(1) * * *

(ii) Exhaust emission deterioration factors for light-duty trucks and heavy-duty engines, and all test data that are derived from the testing described under § 86.094-21(b)(5)(i)(A) of this subpart, as well as a record of all pertinent maintenance. Such testing shall be designed and conducted in accordance with good engineering practice to assure that the engines covered by a certificate issued under § 86.094-30 of this subpart will meet each emission standard (or family emission limit, as appropriate) in §§ 86.094-9, 86.091-10, or 86.091-11 of this subpart as appropriate, in actual use for the useful life applicable to that standard.

* * * * *

10. A new § 86.094-24 is proposed to be added to subpart A to read as follows:

§ 86.094-24 Test vehicles and engines.

Section 86.094-24 includes text that specifies requirements that differ from § 86.092-24. Where a paragraph in § 86.092-24 is identical and applicable to § 86.094-24, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.092-24." Where a corresponding paragraph of § 86.092-24 is not applicable, this is indicated by the statement "[Reserved]."

(a)(1) The vehicles or engines covered by an application for certification will be divided into groupings of engines which are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the respects listed in paragraphs (a)(2)(i) through (x) of this section.

(i) The cylinder bore center-to-center dimensions.

(ii)-(iii) [Reserved]

(iv) The cylinder block configuration (air cooled or water cooled; L-6, 90° V-8, etc.).

(v) The location of the intake and exhaust valves (or ports).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(viii) Catalytic converter characteristics.

(ix) Thermal reactor characteristics.

(x) Type of air inlet cooler (e.g., intercoolers and after-coolers) for diesel heavy-duty engines.

(3)(i) Engines identical in all the respects listed in paragraph (a)(2) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the features of each engine listed in paragraphs (a)(3)(i)(A) through (G) of this section.

(A) The bore and stroke.

(B) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center positions.

(C) The intake manifold induction port size and configuration.

(D) The exhaust manifold port size and configuration.

(E) The intake and exhaust valve sizes.

(F) The fuel system.

(G) The camshaft timing and ignition or injection timing characteristics.

(ii) Light-duty trucks and heavy-duty engines produced in different model years and distinguishable in the respects listed in paragraph (a)(2) of this section shall be treated as belonging to a single engine family if the Administrator requires it, after determining that the engines may be expected to have similar emission deterioration characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (a)(2) through (3) of this section, the Administrator will establish families for those engines based upon those features most related to their emission characteristics. Engines that are eligible to be included in the same engine family based on the criteria in paragraphs (a)(2) and (a)(3)(i) of this section may be further divided into different engine families if the manufacturer determines that they may be expected to have different emission characteristics. This determination will

be based upon a consideration of the features of each engine listed in paragraphs (a)(4)(i) through (iii) of this section.

(i) The dimension from the center line of the crankshaft to the center line of the camshaft.

(ii) The dimension from the center line of the crankshaft to the top of the cylinder block head face.

(iii) The size of the intake and exhaust valves (or ports).

(5) Gasoline-fueled and methanol-fueled light-duty vehicles and light-duty trucks covered by an application for certification will be divided into groupings which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) For gasoline-fueled or methanol-fueled light-duty vehicles and light-duty trucks to be classed in the same evaporative emission family, vehicles must be similar with respect to:

(i) Type of vapor storage device (e.g., canister, air cleaner, crankcase).

(ii) Basic canister design, and

(iii) Fuel system.

(7) Where vehicles are of a type which cannot be divided into evaporative emission families based on the criteria listed above, the Administrator will establish families for those vehicles based upon the features most related to their evaporative emission characteristics.

(8)(i) If the manufacturer elects to participate in the Production AMA Durability Program, the engine families covered by an application for certification shall be grouped based upon similar engine design and emission control system characteristics. Each of these groups shall constitute a separate engine family group.

(ii) To be classed in the same engine family group, engine families must contain engines identical in all of the respects listed in paragraphs (a)(8)(ii)(A) through (D) of this section.

(A) The combustion cycle.

(B) The cylinder block configuration (air-cooled or water-cooled; L-6, V-8, rotary, etc.).

(C) Displacement (engines of different displacement within 50 cubic inches or 15 percent of the largest displacement and contained within a multidisplacement engine family will be included in the same engine family group).

(D) Catalytic converter usage and basic type (noncatalyst, oxidation catalyst only, three-way catalyst equipped).

(9) Engine families identical in all respects listed in paragraph (a)(8) of this section may be further divided into different engine family groups if the Administrator determines that they are expected to have significantly different exhaust emission control system deterioration characteristics.

(10) A manufacturer may request the Administrator to include in an engine family group, engine families in addition to those grouped under the provisions of paragraph (a)(8) of this section. This request must be accompanied by information the manufacturer believes supports the inclusion of these additional engine families.

(11) A manufacturer may combine into a single engine family group those light-duty vehicle and light-duty truck engine families which otherwise meet the requirements of paragraphs (a)(8) through (a)(10) of this section.

(12) The vehicles covered by an application for certification equipped with gasoline-fueled or methanol-fueled heavy-duty engines will be divided into groupings of vehicles on the basis of physical features which are expected to affect evaporative emissions. Each group of vehicles with similar features shall be defined as a separate evaporative emission family.

(13) For vehicles equipped with gasoline-fueled or methanol-fueled heavy-duty engines to be classed in the same evaporative emission family, vehicles must be identical with respect to:

(i) Method of fuel/air metering (i.e., carburetion versus fuel injection), and

(ii) Carburetor bowl fuel volume, within a 10 cc range.

(14) For vehicles equipped with gasoline-fueled or methanol-fueled heavy-duty engines to be classed in the same evaporative emission control system, vehicles must be identical with respect to:

(i) Method of vapor storage.

(ii) Method of carburetor sealing.

(iii) Method of air cleaner sealing.

(iv) Vapor storage working capacity, within a 20 g range.

(v) Number of storage devices.

(vi) Method of purging stored vapors.

(vii) Method of venting the carburetor during both engine off and engine operation.

(viii) Liquid fuel hose material, and

(ix) Vapor storage material.

(15) Where vehicles equipped with gasoline-fueled or methanol-fueled heavy-duty engines are types which cannot be divided into evaporative emission family-control system combinations based on the criteria listed above, the Administrator will establish

evaporative emission family-control system combinations for those vehicles based on features most related to their evaporative emission characteristics.

(b) Emission data. (1) *Emission-data vehicles.* Paragraph (b)(1) of this section applies to light-duty vehicle and light-duty truck emission-data vehicles.

(i) Vehicles will be chosen to be operated and tested for emission data based upon engine family groupings. Within each engine family, one test vehicle will be selected based on the following criteria: The Administrator shall select the vehicle with the heaviest equivalent test weight (including options) within the family. Then within that vehicle the Administrator shall select, in the order listed, the highest road-load power, largest displacement, the transmission with the highest numerical final gear ratio (including overdrive), the highest numerical axle ratio offered in that engine family and the maximum fuel flow calibration.

(ii) The Administrator shall select one additional test vehicle from within each engine family. The vehicle selected shall be the vehicle expected to exhibit the highest emissions of those vehicles remaining in the engine family. If all vehicles within the engine family are similar the Administrator may waive the requirements of this paragraph.

(iii) Within an engine family and exhaust emission control system, the manufacturer may alter any emission-data vehicle (or other vehicles such as including current or previous model year emission-data vehicles, fuel economy data vehicles, and development vehicles provided they meet emission-data vehicles, protocol) to represent more than one selection under paragraph (b)(1) (i), (ii), (iv), or (vii) of this section.

(iv) If the vehicles selected in accordance with paragraphs (b)(1) (i) and (ii) of this section do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be the vehicle expected to exhibit the highest emissions of those vehicles remaining in the engine family.

(v) For high-altitude exhaust emission compliance for each engine family, the manufacturer shall follow one of the procedures described in paragraphs (b)(1)(v) (A) and (B) of this section.

(A) The manufacturer will select for testing under high-altitude conditions the vehicle expected to exhibit the highest emissions from the nonexempt vehicles selected in accordance with paragraphs (b)(1) (ii), (iii), and (iv) of this section or,

(B) In lieu of testing vehicles according to paragraph (b)(1)(v)(A) of this section, a manufacturer may provide a statement in its application for certification that, based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate,

(1) That all light-duty vehicles not exempt under § 86.090-8(h) of this subpart comply with the emission standards at high-altitude, and

(2) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements, and that all light-duty trucks sold at low-altitude, which are not exempt under § 86.090-9(g)(2) of this subpart, are capable of being modified to meet high-altitude standards.

(vi) If 90 percent or more of the engine family sales will be in California, a manufacturer may substitute emission-data vehicles selected by the California Air Resources Board criteria for the selections specified in paragraphs (b)(1) (i), (ii), and (iv) of this section.

(vii)(A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems.

(B) The Administrator will select the vehicle expected to exhibit the highest evaporative emissions, from within each evaporative family to be certified, from among the vehicles represented by the exhaust emission-data selections for the engine family, unless evaporative testing has already been completed on the vehicle expected to exhibit the highest evaporative emissions for the evaporative family as part of another engine family's testing.

(C) If the vehicles selected in accordance with paragraph (b)(1)(vii)(B) of this section do not represent each evaporative emission control system then the Administrator will select the highest expected evaporative emission vehicle from within the unrepresented evaporative system.

(viii) For high-altitude evaporative emission compliance for each evaporative emission family, the manufacturer shall follow one of the procedures described in paragraphs (b)(1)(viii) (A) and (B) of this section.

(A) The manufacturer will select for testing under high-altitude conditions the one nonexempt vehicle previously selected under paragraph (b)(1)(vii) (B) or (C) of this section which is expected to have the highest level of evaporative emissions when operated at high altitude or

(B) In lieu of testing vehicles according to paragraph (b)(1)(viii)(A) of this section, a manufacturer may provide a statement in its application for

certification that based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate,

(1) That all light-duty vehicles not exempt under § 86.090-8(h) of this subpart comply with the emission standards at high altitude and

(2) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements, and that all light-duty trucks sold at low altitude, which are not exempt under § 86.090-9(g)(2) of this subpart, are capable of being modified to meet high-altitude standards.

(ix) Vehicles selected under paragraph (b)(1)(v)(A) of this section may be used to satisfy the requirements of (b)(1)(viii)(A) of this section.

(x) Light-duty trucks only. (A) The manufacturer may reconfigure any of the low-altitude emission-data vehicles to represent the vehicle configuration required to be tested at high altitude.

(B) The manufacturer is not required to test the reconfigured vehicle at low altitude.

(2) *Otto-cycle heavy-duty emission-data engines.* Paragraph (b)(2) of this section applies to Otto-cycle heavy-duty engines.

(i)-(ii) [Reserved]

(iii) The Administrator shall select a maximum of two engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in the engine family as follows:

(A) The Administrator shall select one emission-data engine first based on the largest displacement within the engine family. Then within the largest displacement the Administrator shall select, in the order listed, highest fuel flow at the speed of maximum rated torque, the engine with the most advanced spark timing, no EGR or lowest EGR flow, and no air pump or lowest actual flow air pump.

(B) The Administrator shall select one additional engine, from within each engine family. The engine selected shall be the engine expected to exhibit the highest emissions of those engines remaining in the engine family. If all engines within the engine family are similar the Administrator may waive the requirements of this paragraph.

(iv) If the engines selected in accordance with paragraphs (b)(2) (ii) and (iii) of this section do not represent each engine displacement-exhaust emission control system combination, then one engine of each engine displacement-exhaust emission control

system combination not represented shall be selected by the Administrator.

(v) Within an engine family/displacement/control system, the manufacturer may alter any emission-data engine (or other engine including current or previous model year emission-data vehicles and development engines provided they meet the emission-data engines protocol) to represent more than one selection under paragraphs (b)(2)(iii) of this section.

(3) *Diesel heavy-duty emission-data engines.* Paragraph (b)(3) of this section applies to diesel heavy-duty emission-data vehicles.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of paragraphs (b)(3) (i) through (iv) of this section must be met.

(ii) Engines of each engine family will be divided into groups based upon their exhaust emission control systems. One engine of each engine system combination shall be run for smoke emission data (diesel engines only) and gaseous emission data. Either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine system combinations, then one military engine shall also be selected. The engine with the highest fuel feed per stroke will usually be selected.

(iii) The Administrator may select a maximum of one additional engine within each engine-system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system, fuel system, compression ratio, rated speed, rated horsepower, peak torque speed, and peak torque.

(iv) Within an engine family control system combination, the manufacturer may alter any emission-data engine (or other engine including current or previous model year emission-data vehicles and development engines provided they meet the emission-data engines' protocol) to represent more than one selection under paragraphs (b)(3) (ii) and (iii) of this section.

(c) *Durability data.* (1) *Light-duty vehicle durability-data vehicles.* Paragraph (c)(1) of this section applies to light-duty vehicle durability-data vehicles.

(i) A durability-data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, inertia weight class, test weight.

(ii) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c)(1)(i) of this section. Notice of an intent to operate and test additional vehicles shall be given to the Administrator no later than 30 days following notification of the test fleet selection.

(2) *Light-duty trucks.* Paragraph (c)(2) of this section applies to vehicles, engines, subsystems, or components used to establish exhaust emission deterioration factors for light-duty trucks.

(i) The manufacturer shall select the vehicles, engines, subsystems, or components to be used to determine exhaust emission deterioration factors for each engine-family control system combination. Whether vehicles, engines, subsystems, or components are used, they shall be selected so that their emissions deterioration characteristics may be expected to represent those of in-use vehicles, based on good engineering judgment.

(ii) [Reserved]

(3) *Heavy-duty engines.* Paragraph (c)(3) of this section applies to engines, subsystems, or components used to establish exhaust emission deterioration factors for heavy-duty engines.

(i) The manufacturer shall select the engines, subsystems, or components to be used to determine exhaust emission deterioration factors for each engine-family control system combination. Whether engines, subsystems, or components are used, they shall be selected so that their emissions deterioration characteristics may be expected to represent those of in-use engines, based on good engineering judgment.

(ii) [Reserved]

(d) For purposes of testing under § 86.084-26(a)(9) or (b)(11) of this subpart, the Administrator may require additional emission-data vehicles (or emission-data engines) and durability-data vehicles (light-duty vehicles only)

identical in all material respects to vehicles (or engines) selected in accordance with paragraphs (b) and (c) of this section, provided that the number of vehicles (or engines) selected shall not increase the size of either the emission-data fleet or the durability-data fleet by more than 20 percent or one vehicle (or engine), whichever is greater.

(e)(1) [Reserved]

(2) Any manufacturer may request to certify engine families with combined total sales of fewer than 10,000 light-duty vehicles, light-duty trucks, heavy-duty vehicles, and heavy-duty engines utilizing the procedures contained in § 86.094-14 of this subpart for emission-data vehicle selection and determination of deterioration factors. The deterioration factors shall be applied only to entire engine families.

(f) *Carryover and carry-across of durability and emission data.* In lieu of testing an emission-data or durability-data vehicle (or engine) selected under paragraph (c) of this section, and submitting data therefore, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data and/or evaporative emission data, as applicable on a similar vehicle (or engine) for which certification has previously been obtained or for which all applicable data required under § 86.090-23 of this subpart has previously been submitted.

(g)(1) This paragraph applies to light-duty vehicles and light-duty trucks, but does not apply to the production vehicles selected under paragraph (h) of this section.

(2)(i) Where it is expected that more than 33 percent of a carline, within an engine-system combination will be equipped with an item (whether that item is standard equipment or an option), the full estimated weight of that item shall be included in the curb weight computation for each vehicle available with that option in that carline, within that engine-system combination.

(ii) Where it is expected that 33 percent or less of the carline, within an engine-system, will be equipped with an item of (whether that item is standard equipment or an option), no weight for that item will be added in computing curb weight for any vehicle in that carline, within that engine-system combination, unless that item is standard equipment on the vehicle.

(iii) In the case of mutually exclusive options, only the weight of the heavier option will be added in computing curb weight.

(iv) Optional equipment weighing less than 3 pounds per item need not be considered.

(3)(i) Where it is expected that more than 33 percent of a carline, within an engine-system combination will be equipped with an item of (whether that item is standard equipment or an option) that can reasonably be expected to influence emissions, then such items shall actually be installed (unless excluded under paragraph (g)(3)(ii) of this section) on all emission data and durability data vehicles of that carline, within that engine-system combination, on which the items are intended to be offered in production. Items that can reasonably be expected to influence emissions are: air conditioning, power steering, power brakes and other items determined by the Administrator.

(ii) If the manufacturer determines by test data or engineering evaluation that the actual installation of the optional equipment required by paragraph (g)(3)(i) of this section does not affect the emissions or fuel economy values, the optional equipment need not be installed on the test vehicle.

(iii) The weight of the options shall be included in the design curb weight and also be represented in the weight of the test vehicles.

(iv) The engineering evaluation, including any test data, used to support the deletion of optional equipment from test vehicles, shall be maintained by the manufacturer and shall be made available to the Administrator upon request.

(4) Where it is expected that 33 percent or less of a carline, within an engine system combination will be equipped with an item of (whether that item is standard equipment or an option) that can reasonably be expected to influence emissions, that item shall not be installed on any emission data or durability data vehicles of that carline, within that engine-system combination, unless that item is standard equipment on the vehicle.

(h) Production AMA Durability Program durability-data vehicles. This paragraph applies to light-duty vehicle durability-data vehicles selected under the Production AMA Durability Program described in § 86.094-13 of this subpart.

(1) In order to update the durability data to be used to determine a deterioration factor for each engine family group, the Administrator will select durability-data vehicles from the manufacturer's production line. Production vehicles will be selected from each model year's production for those vehicles certified using the Production AMA Durability Program procedures.

(i) The Administrator shall select the production durability-data vehicle designs from the designs that the manufacturer offers for sale. For each model year and for each engine family group, the Administrator may select production durability-data vehicle designs of equal number to the number of engine families within the engine family group, up to a maximum of three vehicles.

(ii) The production durability-data vehicles representing the designs selected in paragraph (h)(1)(i) of this section will be randomly selected from the manufacturer's production. The Administrator will make these random selections unless the manufacturer (with prior approval of the Administrator) elects to make the random selections.

(iii) The manufacturer may select additional production durability-data vehicle designs from within the engine family group. The production durability-data vehicles representing these designs shall be randomly selected from the manufacturer's production in accordance with paragraph (h)(1)(ii) of this section.

(iv) For each production durability-data vehicle selected under paragraph (h)(1) of this section, the manufacturer shall provide to the Administrator (before the vehicle is tested or begins service accumulation) the vehicle identification number. Before the vehicle begins service accumulation the manufacturer shall also provide the Administrator with a description of the durability-data vehicle as specified by the Administrator.

(v) In lieu of testing a production durability-data vehicle selected under paragraph (h)(1) of this section, and submitting data therefrom, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data from a production vehicle of the same configuration for which all applicable data has previously been submitted.

(2) If, within an existing engine family group, a manufacturer requests to certify vehicles of a new design, engine family, emission control system, or with any other durability-related design difference, the Administrator will determine if the existing engine family group deterioration factor is appropriate for the new design. If the Administrator cannot make this determination or deems the deterioration factor not appropriate, the Administrator shall select preproduction durability-data vehicles under the provisions of paragraph (c) of this section. If vehicles are then certified using the new design, the Administrator may select production vehicles with the new design under the

provisions of paragraph (h)(1) of this section.

(3) If a manufacturer requests to certify vehicles of a new design that the Administrator determines are a new engine family group, the Administrator shall select preproduction durability data vehicles under the provisions of paragraph (c) of this section. If vehicles are then certified using the new design, the Administrator may select production vehicles of that design under the provisions of paragraph (h)(1) of this section.

11. A new § 86.094-25 is proposed to be added to subpart A to read as follows:

§ 86.094-25 Maintenance.

(a)(1) Applicability. This section applies to light-duty vehicles, light-duty trucks, and heavy-duty engines.

(2) Maintenance performed on vehicles, engines, subsystems, or components used to determine exhaust or evaporative emission deterioration factors is classified as either emission-related or non-emission-related and each of these can be classified as either scheduled or unscheduled.

Further, some emission-related maintenance is also classified as critical emission-related maintenance.

(b) This section specifies emission-related scheduled maintenance for purposes of obtaining durability data and for inclusion in maintenance instructions furnished to purchasers of new motor vehicles and new motor vehicles engines under § 86.087-38 of this subpart.

(1) All emission-related scheduled maintenance for purposes of obtaining durability data must occur at the same mileage intervals (or equivalent intervals if engines, subsystems, or components are used) that will be specified in the manufacturer's maintenance instructions furnished to the ultimate purchaser of the motor vehicle or engine under § 86.094-35 of this subpart. This maintenance schedule may be updated as necessary throughout the testing of the vehicle/engine provided that no maintenance operation is deleted from the maintenance schedule after the operation has been performed on the test vehicle or engine.

(2) Any emission-related maintenance which is performed on vehicles, engines, subsystems, or components must be technologically necessary to assure in-use compliance with the emission standards. The manufacturer must submit data which demonstrate to the Administrator that all of the emission-related scheduled maintenance which is

to be performed is technologically necessary. Scheduled maintenance must be approved by the Administrator prior to being performed or being included in the maintenance instructions provided to purchasers under § 86.087-38 of this subpart. As provided below, EPA has determined that emission-related maintenance at shorter intervals than that outlined in paragraphs (b) (3) and (4) of this section is not technologically necessary to ensure in-use compliance. However, the Administrator may determine that maintenance even more restrictive (e.g., longer intervals) than that listed in paragraphs (b) (3) and (4) of this section is also not technologically necessary.

(3) For Otto-cycle light-duty vehicles, light-duty trucks and heavy-duty engines, emission-related maintenance in addition to, or at shorter intervals than, the following listed in paragraphs (b)(3) (i) through (vii) of this section will not be accepted as technologically necessary, except as provided in paragraph (b)(7) of this section:

(i)(A) The cleaning or replacement of light-duty vehicle or light-duty truck spark plugs at 30,000 miles of use and at 30,000 mile intervals thereafter.

(B) The cleaning or replacement of Otto-cycle heavy-duty engine spark plugs at 25,000 miles (or 750 hours) of use and at 25,000 mile intervals (or 750-hour) intervals thereafter, for engines certified for use with unleaded fuel only.

(ii) For heavy-duty engines, the adjustment, cleaning, repair, or replacement of the items listed in paragraphs (b)(3)(ii) (A) through (D) of this section at 50,000 miles (or 1,500 hours) of use and at 50,000-mile (or 1,500-hour) intervals thereafter.

(A) Positive crankcase ventilation valve.

(B) Emission-related hoses and tubes.

(C) Ignition wires.

(D) Idle mixture.

(iii) For light-duty vehicles and light-duty trucks, the adjustment, cleaning, repair, or replacement of the items listed in paragraphs (b)(3)(iii) (A) through (D) of this section at 50,000 miles of use and at 50,000-mile intervals thereafter.

(A) Positive crankcase ventilation valve.

(B) Emission-related hoses and tubes.

(C) Ignition wires.

(D) Idle mixture.

(iv) For light-duty vehicles, light-duty trucks and heavy-duty engines, the adjustment, cleaning, repair, or replacement of the oxygen sensor at 80,000-miles (or 2,400-hours) of use and at 80,000-mile (or 2,400-hour) intervals thereafter.

(v) For heavy-duty engines, the adjustment, cleaning, repair, or

replacement of the items listed in paragraphs (b)(3)(v) (A) through (G) of this section at 100,000 miles (or 3,000 hours) of use and at 100,000-mile (or 3,000-hour) intervals thereafter:

(A) Catalytic converter.

(B) Air injection system components.

(C) Fuel injectors.

(D) Electronic engine control unit and its associated sensors (except oxygen sensor) and actuators.

(E) Evaporative emission canister.

(F) Turbochargers.

(G) Carburetors.

(vi) For light-duty vehicles and light-duty trucks, the adjustment, cleaning, repair, or replacement of the items listed in paragraphs (b)(3)(vi) (A) through (I) of this section at 100,000 miles of use and at 100,000-mile intervals thereafter:

(A) Catalytic converter.

(B) Air injection system components.

(C) Fuel injectors.

(D) Electronic engine control unit and its associated sensors (except oxygen sensor) and actuators.

(E) Evaporative emission canister.

(F) Turbochargers.

(G) Carburetors.

(H) Superchargers.

(I) EGR System including all related filters and control valves.

(vii) For heavy-duty engines certified for use with unleaded fuel only, the adjustment, cleaning, repair, or replacement of the EGR system (including all related filters and control valves) at 50,000 miles (or 1,500 hours) of use and at 50,000-mile (or 1,500-hour) intervals thereafter.

(4) For diesel-cycle light-duty vehicles, light-duty trucks, and heavy-duty engines, emission-related maintenance in addition to, or at shorter intervals than, the following listed in paragraphs (b)(4) (i) through (iv) of this section will not be accepted as technologically necessary, except as provided in paragraph (b)(7) of this section:

(i) For heavy-duty engines, the adjustment, cleaning, repair, or replacement of the items listed in paragraphs (b)(4)(i) (A) through (C) of this section at 50,000 miles (or 1,500 hours) of use and at 50,000-mile (or 1,500-hour) intervals thereafter.

(A) Exhaust gas recirculation system including all related filters and control valves.

(B) Positive crankcase ventilation valve.

(C) Fuel injector tips (cleaning only).

(ii) For light-duty vehicles and light-duty trucks, the adjustment, cleaning, repair, or replacement of the positive crankcase ventilation valve at 50,000 miles of use and at 50,000-mile intervals thereafter.

(iii) The adjustment, cleaning, repair, or replacement of items listed in paragraphs (b)(4)(iii) (A) through (D) of this section at 100,000 miles (or 3,000 hours) of use and at 100,000-mile (or 3,000-hour) intervals thereafter for light heavy-duty engines, or, at 150,000 miles (or 4,500 hours) of use and at 150,000-mile (or 4,500-hour) intervals thereafter for medium and heavy-duty engines.

(A) Fuel injectors.

(B) Turbocharger.

(C) Electronic engine control unit and its associated sensors and actuators.

(D) Particulate trap or trap-oxidizer system (including related components).

(iv) For light-duty vehicles and light-duty trucks, the adjustment, cleaning, repair, or replacement at 100,000 miles of use and at 100,000-mile intervals thereafter of the items listed in paragraphs (b)(4)(iv) (A) through (G) of this section.

(A) Fuel injectors.

(B) Turbocharger.

(C) Electronic engine control unit and its associated sensors and actuators.

(D) Particulate trap or trap-oxidizer system (including related components).

(E) Exhaust gas recirculation system including all related filters and control valves.

(F) Catalytic converter.

(G) Superchargers.

(5) [Reserved]

(6)(i) The components listed in (b)(6)(i)(A) through (b)(6)(i)(G) of this section are currently defined as critical emission-related components.

(A) Catalytic converter.

(B) Air injection system components.

(C) Electronic engine control unit and its associated sensors (including oxygen sensor if installed) and actuators.

(D) Exhaust gas recirculation system (including all related filters and control valves).

(E) Positive crankcase ventilation valve.

(F) Evaporative emission control system components (excluding canister air filter).

(G) Particulate trap or trap-oxidizer system.

(ii) All critical emission-related scheduled maintenance must have a reasonable likelihood of being performed in-use. The manufacturer shall be required to show the reasonable likelihood of such maintenance being performed in-use, and such showing shall be made prior to the performance of the maintenance on the durability data vehicle. Critical emission-related scheduled maintenance items which satisfy one of the conditions defined in paragraphs (b)(6)(ii) (A) through (F) of this section will be accepted as having a

reasonable likelihood of the maintenance item being performed in-use.

(A) Data are presented which establish for the Administrator a connection between emissions and vehicle performance such that as emissions increase due to lack of maintenance, vehicle performance will simultaneously deteriorate to a point unacceptable for typical driving.

(B) Survey data are submitted which adequately demonstrate to the Administrator that, at an 80 percent confidence level, 80 percent of such engines already have this critical maintenance item performed in-use at the recommended interval(s).

(C) A clearly displayed visible signal system approved by the Administrator is installed to alert the vehicle driver that maintenance is due. A signal bearing the message "maintenance needed" or "check engine" or a similar message approved by the Administrator, shall be actuated at the appropriate mileage point or by component failure. This signal must be continuous while the engine is in operation, and not be easily eliminated without performance of the required maintenance. Resetting the signal shall be a required step in the maintenance operation. The method for resetting the signal system shall be approved by the Administrator.

(D) A manufacturer may desire to demonstrate through a survey that a critical maintenance item is likely to be performed without a visible signal on a maintenance item for which there is no prior in-use experience without the signal. To that end, the manufacturer may in a given model year market up to 200 randomly selected vehicles per critical emission-related maintenance item without such visible signals, and monitor the performance of the critical maintenance item by the owners to show compliance with paragraph (b)(6)(ii)(B) of this section. This option is restricted to two consecutive model years and may not be repeated until any previous survey has been completed. If the critical maintenance involves more than one engine family, the sample will be sales weighted to ensure that it is representative of all the families in question.

(E) The manufacturer provides the maintenance free of charge, and clearly informs the customer that the maintenance is free in the instructions provided under § 86.087-38 of this subpart.

(F) Any other method which the Administrator approves as establishing a reasonable likelihood that the critical maintenance will be performed in-use.

(iii) Visible signal systems used under paragraph (b)(6)(ii)(C) of this section are considered an element of design of the emission control system. Therefore, disabling, resetting, or otherwise rendering such signals inoperative without also performing the indicated maintenance procedure is a prohibited act under section 203(a)(3) of the Clean Air Act, as amended in August 1977 (42 U.S.C. 7522(a)(3)).

(7) Changes to scheduled maintenance. (i) For maintenance practices that existed prior to the 1980 model year, only the maintenance items listed in paragraphs (b)(3) and (b)(4) of this section are currently considered by EPA to be emission-related. The Administrator may, however, determine additional scheduled maintenance items that existed prior to the 1980 model year to be emission-related by announcement in a **Federal Register Notice**. In no event may this notification occur later than September 1 of the calendar year two years prior to the affected model year.

(ii) In the case of any new scheduled maintenance, the manufacturer must submit a request for approval to the Administrator for any maintenance that it wishes to recommend to purchasers and perform during durability determination. New scheduled maintenance is that maintenance which did not exist prior to the 1980 model year, including that which is a direct result of the implementation of new technology not found in production prior to the 1980 model year. The manufacturer must also include its recommendations as to the category (i.e., emission-related or non-emission-related, critical or non-critical) of the subject maintenance and, for suggested emission-related maintenance, the maximum feasible maintenance interval. Such requests must include detailed evidence supporting the need for the maintenance requested, and supporting data or other substantiation for the recommended maintenance category and for the interval suggested for emission-related maintenance. Requests for new scheduled maintenance must be approved prior to the introduction of the new maintenance. The Administrator will then designate the maintenance as emission-related or non-emission-related. For maintenance items established as emission-related, the Administrator will further designate the maintenance as critical if the component which receives the maintenance is a critical component under paragraph (b)(6) of this section. For each maintenance item designated as emission-related, the Administrator will also establish a technologically necessary maintenance interval, based

on industry data and any other information available to EPA. Designations of emission-related maintenance items, along with their identification as critical or non-critical, and establishment of technologically necessary maintenance intervals, will be announced in the **Federal Register**.

(iii) Any manufacturer may request a hearing on the Administrator's determinations in paragraph (b)(7) of this section. The request shall be in writing, and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078-6 of this subpart with respect to such issue.

(c) Non-emission-related scheduled maintenance which is reasonable and technologically necessary (e.g., oil change, oil filter change, fuel filter change, air filter change, cooling system maintenance, adjustment of idle speed, governor, engine bolt torque, valve lash, injector lash, timing, adjustment of air pump drive belt tension, lubrication of the exhaust manifold heat control valve, lubrication of carburetor choke linkage, retorqueing carburetor mounting bolts, etc.) may be performed on durability-data vehicles at the least frequent intervals recommended by the manufacturer to the ultimate purchaser, (e.g., not at the intervals recommended for severe service).

(d) Unscheduled maintenance on light-duty durability data vehicles. (1) Unscheduled maintenance may be performed during the testing used to determine deterioration factors, except as provided in paragraphs (d)(2) and (3) of this section, only under the provisions defined in paragraphs (d)(1)(i) through (iii) of this section:

(i) A fuel injector or spark plug may be changed if a persistent misfire is detected.

(ii) Readjustment of an Otto-cycle vehicle cold-start enrichment system may be performed if there is a problem of stalling.

(iii) Readjustment of the engine idle speed (curb idle and fast idle) may be performed in addition to that performed as scheduled maintenance under paragraph (c) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 rpm or more, or if there is a problem of stalling.

(2) Any other unscheduled vehicle, emission control system, or fuel system adjustment, repair, removal,

disassembly, cleaning, or replacement during testing to determine deterioration factors shall be performed only with the advance approval of the Administrator. Such approval will be given if the Administrator:

(i) Has made a preliminary determination that the part failure or system malfunction, or the repair of such failure or malfunction, does not render the vehicle or engine unrepresentative of vehicles or engines in-use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement; and,

(ii) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfiring, engine stalling, overheating, fluid leakage, loss of oil pressure, excessive fuel consumption or excessive power loss. The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or vehicle/engine malfunction (e.g., misfiring, stalling, black smoke), or an activation of an audible and/or visible signal, prior to the performance of any maintenance to which such overt indication or signal is relevant under the provisions of this section.

(3) Emission measurement may not be used as a means of determining the need for unscheduled maintenance under paragraph (d)(2) of this section, except under the conditions defined in paragraphs (d)(3)(i) through (ii).

(i) The Administrator may approve unscheduled maintenance on durability-data vehicles based upon a significant change in emission levels that indicates a vehicle or engine malfunction. In these cases the Administrator may first approve specific diagnostic procedures to identify the source of the problem. The Administrator may further approve of specific corrections to the problem after the problem has been identified. The Administrator may only approve the corrective action after it is determined that:

(A) The malfunction was caused by nonproduction build practices or by a previously undetected design problem.

(B) The malfunction will not occur in production vehicles or engines in-use, and

(C) The deterioration factor generated by the durability-data vehicle or engine will remain unaffected by the malfunction or by the corrective action (e.g., the malfunction was present for only a short period of time before detection, replacement parts are functionally representative of the proper mileage or hours, etc.).

(ii) Following any unscheduled maintenance approved under paragraph (d)(3)(i) of this section, the manufacturer shall perform an after-maintenance emissions test. If the Administrator determines that the after-maintenance emission levels for any pollutant indicates that the deterioration factor is no longer representative of production, the Administrator may disqualify the durability-data vehicle or engine.

(4) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the vehicle/engine unrepresentative of vehicles in-use, the vehicle/engine shall not be used for determining deterioration factors.

(5) Repairs to vehicle components of a durability data vehicle other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(e) Maintenance on emission data vehicles and engines. (1) Adjustment of engine idle speed on emission data vehicles may be performed once before the low-mileage/low-hour emission test point. Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on emission data vehicles shall be performed only with the advance approval of the Administrator.

(2)-(3) [Reserved]

(4) Repairs to vehicle components of an emission data vehicle other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(f) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets and:

(1) Are used in conjunction with scheduled maintenance on such components, or

(2) Are used subsequent to the identification of a vehicle or engine malfunction, as provided in paragraph (d)(2) of this section for durability data vehicles or in paragraph (e)(1) of this section for emission-data vehicles, or

(3) Unless specifically authorized by the Administrator.

(g)(1) Paragraph (g) of this section applies to light-duty vehicles.

(2) Complete emission tests (see §§ 86.106 through 86.145 of subpart B of this part) are required, unless waived by

the Administrator, before and after scheduled maintenance approved for durability data vehicles. The manufacturer may perform emission tests before unscheduled maintenance. Complete emission tests are required after unscheduled maintenance which may reasonably be expected to affect emissions. The Administrator may waive the requirement to test after unscheduled maintenance. These test data may be submitted weekly to the Administrator, but shall be air posted or delivered within 7 days after completion of the tests, along with a complete record of all pertinent maintenance, including a preliminary engineering report of any malfunction diagnosis and the corrective action taken. A complete engineering report shall be delivered to the Administrator concurrently with the manufacturer's application for certification.

(h) All test data, maintenance reports, and required engineering reports shall be compiled and provided to the Administrator in accordance with § 86.090-23 of this subpart.

12. A new § 86.094-26 is proposed to be added to subpart A to read as follows:

§ 86.094-26 Mileage and service accumulation; emission requirements.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles. It prescribes mileage and service accumulation requirements for durability data vehicles run under either the Standard AMA Durability Program of § 86.094-13(c) of this subpart or the Production AMA Durability Program of § 86.094-13(d) of this subpart, and for emission data vehicles regardless of the durability program employed. Service accumulation requirements for durability data vehicles run under the Alternative Service Accumulation Program may be found in § 86.094-13(e) of this subpart.

(2)(i) The standard method of whole-vehicle service accumulation for durability vehicles and for emission data vehicles in model years 1994 and 1995 shall be mileage accumulation using the Durability Driving Schedule as specified in appendix IV to this part. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.129 of subpart B of this part, the manufacturer may elect to conduct the respective

emission tests at higher loaded vehicle weight.

(ii) If approved in advance by the Administrator, a substitute whole-vehicle mileage accumulation schedule to that specified in paragraph (a)(2)(i) of this section may also be used. The Administrator may approve such a procedure if it is substantially similar to the procedure specified in paragraph (a)(2)(i) of this section in its average speed, distribution of speeds, number of stops per mile, number of accelerations to the various speeds per mile. The Administrator may adopt additional or alternative criteria for evaluating substantially similar mileage schedules, consistent with good engineering practice. The Administrator may also approve a substitute schedule that is not substantially similar to the procedure specified in paragraph (a)(2)(i) of this section, based on a demonstration by the manufacturer that the schedule will be substantially more effective in predicting in-use emission deterioration than the AMA.

(3) Emission-data vehicles. Unless otherwise provided for in § 86.091-23(a) of this subpart, emission-data vehicles shall be operated and tested as follows:

(i) Otto-cycle. (A) The manufacturer shall determine, for each engine family, the mileage at which the engine-system combination is stabilized for emission-data testing. The manufacturer shall maintain, and provide to the Administrator if requested, a record of the rationale used in making this determination. The manufacturer may elect to accumulate 4,000 miles on each test vehicle within an engine family without making a determination. The manufacturer must accumulate a minimum of 2,000 miles (3,219 kilometers) on each test vehicle within an engine family. All test vehicle mileage must be accurately determined, recorded, and reported to the Administrator. Any vehicle used to represent emission-data vehicle selections under § 86.094-24(b)(1) of this subpart shall be equipped with an engine and emission control system that has accumulated the mileage the manufacturer chose to accumulate on the test vehicle. Fuel economy data generated from certification vehicles selected in accordance with § 86.094-24(b)(1) of this subpart with engine-system combinations that have accumulated more than 10,000 kilometers (6,200 miles) shall be factored in accordance with § 600.006 of this chapter. Complete exhaust and evaporative (if required) emission tests shall be conducted for each emission-data vehicle selection under § 86.094-

24(b)(1) of this subpart. The Administrator may determine under § 86.094-24(f) of this subpart that no testing is required.

(B) Emission tests for emission-data vehicle(s) selected for testing under § 86.094-24(b)(1) (v) or (viii) of this subpart shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing under high-altitude conditions.

(C) Exhaust and evaporative emissions tests for emission-data vehicle(s) selected for testing under § 86.094-24(b)(1) (i), (ii), (iii), (iv), or (vii)(B) of this subpart shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing under low-altitude conditions.

(D) For each engine family, the manufacturer will either select one vehicle previously selected under § 86.094-24(b)(1) (i) through (iv) of this subpart to be tested under high-altitude conditions or provide a statement in accordance with § 86.094-24(b)(1)(v) of this subpart. Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. In addition, any emission control device used to conform with the emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

(ii) Diesel. (A) The manufacturer shall determine, for each engine family, the mileage at which the engine-system combination is stabilized for emission-data testing. The manufacturer shall maintain, and provide to the Administrator if requested, a record of the rationale used in making this determination. The manufacturer may elect to accumulate 4,000 miles on each test vehicle within an engine family without making a determination. The manufacturer must accumulate a minimum of 2,000 miles (3,219 kilometers) on each test vehicle within an engine family. All test vehicle mileage must be accurately determined, recorded, and reported to the Administrator. Any vehicle used to represent emission-data vehicle selections under § 86.094-24(b)(1) of this subpart shall be equipped with an engine and emission control system that has accumulated the mileage the manufacturer chose to accumulate on the test vehicle. Fuel economy data generated from certification vehicles selected in accordance with § 86.094-24(b)(1) of this subpart with engine-system combinations that have accumulated more than 10,000

kilometers (6,200 miles) shall be factored in accordance with § 600.006 of this chapter. Complete exhaust emission tests shall be conducted for each emission-data vehicle selection under § 86.094-24(b)(1) of this subpart. The Administrator may determine under § 86.094-24(f) of this subpart that no testing is required.

(B) Emission tests for emission-data vehicle(s) selected for testing under § 86.094-24(b)(1)(v) of this subpart shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing under high-altitude conditions.

(C) Exhaust and evaporative emissions tests for emission-data vehicle(s) selected for testing under § 86.094-24(b)(1) (i), (ii), (iii), (iv), or (vii)(B) of this subpart shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing under low-altitude conditions.

(D) For each engine family, the manufacturer will either select one vehicle previously selected under § 86.094-24(b)(1) (i) through (iv) of this subpart to be tested under high-altitude conditions or provide a statement in accordance with § 86.094-24(b)(1)(v) of this subpart. Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. In addition, any emission control device used to conform with the emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

(4)(i) Durability data vehicles. (A) Unless otherwise provided for in § 86.094-23(a) of this subpart or in paragraph (a)(4)(i)(B) of this section, each durability-data vehicle shall be driven on the whole-vehicle mileage accumulation cycle specified in paragraph (a)(2) of this section, with all emission control systems installed and operating, up to a mileage endpoint corresponding to the vehicle's durability useful life as defined in § 86.094-2 of this subpart.

(B) Extrapolation of durability data and changes to the mileage accumulation cycle. (1) Once a durability vehicle has reached the greater of 75,000 miles or three-quarters of the applicable durability useful life, the manufacturer may petition the Administrator to extrapolate the durability data obtained up to that point out to the durability useful life or to replace the mileage accumulation cycle with an alternative that meets the criteria of paragraph (a)(2)(ii) of this section. In the petition, the manufacturer

shall supplement the durability vehicle data with other information demonstrating the durability of the vehicle's emission control components and systems at or beyond the durability useful life.

(2) Factors the Administrator will consider in evaluating petitions for extrapolation of durability data or for changes to the mileage accumulation cycle include, but are not limited to, any unusual scheduled maintenance, unscheduled maintenance, the general linearity and scatter of the actual data, reasonable explanations for all outlier data, the technical validity of any substitute mileage accumulation cycle, and evidence supplied by the vehicle manufacturer of component and system durability.

(3) If a petition for extrapolation of durability data is approved, the endpoint for whole-vehicle mileage accumulation of the durability data vehicle shall be the mileage attained by the vehicle as reflected in the petition.

(4) Discontinuation of a durability-data vehicle shall be allowed only with the consent of the Administrator.

(C) Complete exhaust emission tests shall be made at test point mileage intervals that the manufacturer determines. At a minimum, two complete exhaust emission tests shall be made. The first test shall be made at a distance not greater than 6,250 miles. The last shall be made at the mileage accumulation endpoint determined in paragraph (a)(4)(i)(A) or (B) of this section, whichever is applicable.

(D) Except with advance approval of the Administrator, the mileage interval between test points must be of equal length except for the interval between zero miles and the first test, and any interval before or after testing conducted in conjunction with vehicle maintenance as specified in § 86.094-25(g)(2) of this subpart.

(ii) The manufacturer may, at its option, alter the durability-data vehicle at the selected test point to represent emission-data vehicle(s) within the same engine-system combination and perform emission tests on the altered vehicle. Upon completion of emission testing, the manufacturer may return the test vehicle to the durability-data vehicle configuration and continue mileage accumulation.

(5) (i) All tests required by this subpart on emission-data vehicles shall be conducted at a mileage equal to or greater than the mileage the manufacturer determines under paragraph (a)(3) of this section.

(ii) All tests required by this subpart on durability-data vehicles shall be

conducted within 250 miles of each of the test points.

(6)(i)(A) The manufacturer may conduct multiple tests at any test point at which the data are intended to be used in the deterioration factor. At each test point where multiple tests are conducted, the test results from all valid tests shall be averaged to determine the data point to be used in the deterioration factor calculation, except under paragraph (a)(6)(i)(B) of this section. The test results from emission tests performed before maintenance affecting emissions shall not be averaged with test results after the maintenance.

(B) The manufacturer is not required to average multiple tests if the manufacturer conducts no more than three tests at each test point and if the number of tests at each test point is equal. All test points must be treated the same for all exhaust pollutants.

(ii) The results of all emission testing shall be supplied to the Administrator. The manufacturer shall furnish to the Administrator explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) may be submitted weekly to the Administrator, but shall be air posted or delivered to the Administrator within 7 days after completion of the test. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.091-23 of this subpart. Where the Administrator conducts a test on a durability-data vehicle at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(iii) The results of all emission tests shall be rounded, using the "Rounding Off Method" specified in ASTM E 29-67, to the number of places to the right of the decimal point indicated by expressing the applicable emission standard of this subpart to one additional significant figure.

(7) Whenever a manufacturer intends to operate and test a vehicle which may be used for emission or durability data, the manufacturer shall retain in its records all information concerning all emissions tests and maintenance, including vehicle alterations to represent other vehicle selections. For emission-data vehicles, this information shall be submitted, including the vehicle description and specification information required by the Administrator, to the Administrator

following the emission-data test. For durability-data vehicles, this information shall be submitted following the 5,000-mile test.

(8) The data from emissions data vehicles and durability data vehicles obtained pursuant to the provisions of this section will be used in the calculations under § 86.094-28 of this subpart.

(9) (i) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(ii) The test procedures in §§ 86.106 through 86.145 of subpart B of this part will be followed by the Administrator. The Administrator will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(iii) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(10) Emission testing of any type with respect to any certification vehicle other than that specified in this part is not allowed except as such testing may be specifically authorized by the Administrator.

(11) This section does not apply to testing conducted to meet the requirements of § 86.091-23(b)(2) of this subpart.

(b) (1) Paragraph (b) of this section applies to light-duty trucks.

(2) There are four types of mileage or service accumulation applicable to light-duty trucks, described in paragraphs (b)(2)(i) through (iv) of this section.

(i) Service accumulation conducted under the Standard Self-Approval Durability Program of § 86.094-13(f) of this subpart. This type of service accumulation is applicable for model years 1994 and 1995 only. The manufacturer determines the form and extent of this service accumulation, consistent with good engineering practice, and describes it in the application for certification. Service accumulation under the Standard Self-Approval Durability Program is

conducted on vehicles, engines, subsystems, or components selected by the manufacturer under § 86.094-24(c)(2)(i) of this subpart.

(ii) Service accumulation conducted under the Alternative Service Accumulation Durability Program of § 86.094-13(e) of this subpart. This type of service accumulation is applicable for model years 1994 and 1995 only. The service accumulation method is developed by the manufacturer to be consistent with good engineering practice and to accurately predict the deterioration of the vehicle's emissions in actual use over its full useful life. The method is subject to advance approval by the Administrator and to verification by an in-use verification program conducted by the manufacturer under § 86.094-13(e)(5) of this subpart.

(iii) Mileage accumulation of the duration selected by the manufacturer on emission-data vehicles selected under § 86.094-24(b)(1) of this subpart. The procedure for mileage accumulation will be the Durability Driving Schedule as specified in appendix IV to this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.129 of subpart B of this part, the manufacturer may elect to conduct the respective emission tests at higher loaded vehicle weight.

(iv) Service or mileage accumulation which may be part of the test procedures used by the manufacturer to establish evaporative emission deterioration factors.

(3) Exhaust emission deterioration factors will be determined on the basis of the mileage or service accumulation described in paragraph (b)(2) (i) or (ii) of this section and related testing, according to the manufacturer's procedures.

(4) Each emission-data vehicle shall be operated and tested as follows:

(i) Otto-cycle. (A) The manufacturer shall determine, for each engine family, the mileage at which the engine-system combination is stabilized for emission-data testing. The manufacturer shall maintain, and provide to the Administrator if requested, a record of the rationale used in making this determination. The manufacturer may elect to accumulate 4,000 miles on each test vehicle within an engine family without making a determination. The manufacturer must accumulate a

minimum of 2,000 miles (3,219 kilometers) on each test vehicle within an engine family. All test vehicle mileage must be accurately determined, recorded, and reported to the Administrator. Any vehicle used to represent emission-data vehicle selections under § 86.094-24(b)(1) of this subpart shall be equipped with an engine and emission control system that has accumulated the mileage the manufacturer chose to accumulate on the test vehicle. Fuel economy data generated from certification vehicles selected in accordance with § 86.094-24(b)(1) of this subpart with engine-system combinations that have accumulated more than 10,000 kilometers (6,200 miles) shall be factored in accordance with § 600.006 of this chapter. Complete exhaust emission tests shall be conducted for each emission-data vehicle selection under § 86.094-24(b)(1) of this subpart. The Administrator may determine under § 86.094-24(f) of this subpart that no testing is required.

(B) Emission tests for emission-data vehicle(s) selected for testing under § 86.094-24(b)(1) (v) or (viii) of this subpart shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing or at 6,436 kilometers (4,000 miles) under high-altitude conditions.

(C) Exhaust and evaporative emission tests for emission-data vehicle(s) selected for testing under § 86.094-24(b)(1) (ii), (iii), (iv)(A), or (vii)(B) of this subpart shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing or at 6,436 kilometer (4,000 mile) test point under low-altitude conditions.

(D) If the manufacturer recommends adjustments or modifications in order to conform to emission standards at high altitude, such adjustments or modifications shall be made to the test vehicle selected under § 86.094-24(b)(1) (v) and (viii) of this subpart (in accordance with the instructions to be provided to the ultimate purchaser) before being tested under high-altitude conditions.

(ii) Diesel. (A) The manufacturer shall determine, for each engine family, the mileage at which the engine-system combination is stabilized for emission-data testing. The manufacturer shall maintain, and provide to the Administrator if requested, a record of the rationale used in making this determination. The manufacturer may elect to accumulate 4,000 miles on each test vehicle within an engine family without making a determination. The

manufacturer must accumulate a minimum of 2,000 miles (3,219 kilometers) on each test vehicle within an engine family. All test vehicle mileage must be accurately determined, recorded, and reported to the Administrator. Any vehicle used to represent emission-data vehicle selections under § 86.094-24(b)(1) of this subpart shall be equipped with an engine and emission control system that has accumulated the mileage the manufacturer chose to accumulate on the test vehicle. Fuel economy data generated from certification vehicles selected in accordance with § 86.094-24(b)(1) of this subpart with engine-system combinations that have accumulated more than 10,000 kilometers (6,200 miles) shall be factored in accordance with § 600.006 of this chapter. Complete exhaust emission tests shall be conducted for each emission-data vehicle selection under § 86.094-24(b)(1) of this subpart. The administrator may determine under § 86.094-24(f) of this subpart that no testing is required.

(B) Emission tests for emission-data vehicle(s) selected for testing under § 86.094-24(b)(1)(v) of this subpart shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing or at the 6,436 kilometer (4,000 mile) test point under high-altitude conditions.

(C) Exhaust and evaporative emission tests for emission-data vehicle(s) selected for testing under § 86.094-24(b)(1) (ii), (iii), and (iv) of this subpart shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing or at the 6,436 kilometer (4,000 mile) test point under low-altitude conditions.

(D) If the manufacturer recommends adjustments or modifications in order to conform to emission standards at high-altitude, such adjustments or modifications shall be made to the test vehicle selected under § 86.094-24(b)(1) (v) and (viii) of this subpart (in accordance with the instructions to be provided to the ultimate purchaser) before being tested under high-altitude conditions.

(iii) [Reserved]

(iv) All tests required by this subpart on emission-data vehicles shall be conducted at a mileage equal to or greater than the mileage the manufacturer determines under paragraph (b)(4) of this section.

(c) (1) Paragraph (c) of this section applies to heavy-duty engines.

(2) There are two types of service accumulation applicable to heavy-duty engines, described in paragraphs (c)(2)(i) and (ii) of this section.

(i) Service accumulation on engines, subsystems, or components selected by the manufacturer under § 86.094-24(c)(3)(i) of this subpart. The manufacturer determines the form and extent of this service accumulation, consistent with good engineering practice, and describes it in the application for certification.

(ii) Dynamometer service accumulation on emission-data engines selected under § 86.094-24(b) (2) or (3) of this subpart. The manufacturer determines the engine operating schedule to be used for dynamometer service accumulation, consistent with good engineering practice. A single engine operating schedule shall be used for all engines in an engine family-control system combination. Operating schedules may be different for different combinations.

(3) Exhaust emission deterioration factors will be determined on the basis of the service accumulation described in paragraph (b)(2)(i) of this section and related testing, according to the manufacturer's procedures.

(4) The manufacturer shall determine, for each engine family, the number of hours at which the engine system combination is stabilized (no less than 62 hours for catalyst equipped) for emission-data testing. The manufacturer shall maintain, and provide to the Administrator if requested a record of the rationale used in making this determination. The manufacturer may elect to accumulate 125 hours on each test engine within an engine family without making a determination. Any engine used to represent emission-data engine selections under § 86.094-24(b)(2) of this subpart shall be equipped with an engine system combination that has accumulated at least the number of hours determined under this paragraph. Complete exhaust emission tests shall be conducted for each emission-data engine selection under § 86.094-24(b)(2) of this subpart. Evaporative emission controls need not be connected provided normal operating conditions are maintained in the engine induction system. The Administrator may determine under § 86.094-24(f) of this subpart that no testing is required.

(d)(1) Paragraph (d) of this section applies to both light-duty trucks and heavy-duty engines.

(2)(i) The results of all emission testing shall be supplied to the Administrator. The manufacturer shall furnish to the Administrator explanation for voiding any test. The Administrator

will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) may be submitted weekly to the Administrator, but shall be air posted or delivered to the Administrator within 7 days after completion of the test. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 86.094-23 of this subpart. Where the Administrator conducts a test on a durability-data vehicle at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(ii) The results of all emission tests shall be recorded and reported to the Administrator. These test results shall be rounded, in accordance with ASTM E 29-67, to the number of decimal places contained in the applicable emission standard expressed to one additional significant figure.

(3) Whenever a manufacturer intends to operate and test a vehicle (or engine) which may be used for emission data, the manufacturer shall retain in its records all information concerning all emissions tests and maintenance, including vehicle (or engine) alterations to represent other vehicle (or engine) selections. This information shall be submitted, including the vehicle (or engine) description and specification information required by the Administrator, to the Administrator following the emission-data test.

(4)-(5) [Reserved]

(6) Emission testing of any type with respect to any certification vehicle or engine other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

13. A new § 86.094-28 is proposed to be added to subpart A to read as follows:

§ 86.094-28 Compliance with emission standards.

(a) (1) Paragraph (a) of this section applies to light-duty vehicles.

(2) Each exhaust and evaporative emissions standard (and family particulate emission limit, as appropriate) of § 86.094-8 of this subpart applies to the emissions of vehicles for the useful life defined for that standard in §§ 86.094-2 and 86.094-8 of this subpart.

(3) Since it is expected that emission control efficiency will change with mileage accumulation on the vehicle, the emission level of a vehicle which has accumulated mileage equal to the

specified useful life will be used as the basis for determining compliance with the standard (or family particulate emission limit, as appropriate).

(4) The procedure for determining compliance of a new motor vehicle with exhaust and evaporative emission standards (or family particulate emission limit, as appropriate) is as follows, except where specified by paragraph (a)(7) of this section for the Production AMA Durability Program:

(i) Separate emission deterioration factors shall be determined from the exhaust emission results of the durability-data vehicle(s) for each engine-system combination. A separate evaporative emission deterioration factor shall be determined for each evaporative emission family-evaporative emission control system combination from the testing conducted by the manufacturer (gasoline-fueled and methanol-fueled vehicles only).

(A) The applicable results to be used unless excluded by paragraph (a)(4)(i)(A)(4) of this section in determining the exhaust emission deterioration factors for each engine-system combination shall be:

(1) All valid exhaust emission data from the tests required under § 86.094-26(a)(4) of this subpart except the zero-mile tests. This shall include the official test results, as determined in § 86.091-29 of this subpart for all tests conducted on all durability-data vehicles of the combination selected under § 86.094-24(c) of this subpart (including all vehicles elected to be operated by the manufacturer under § 86.094-24(c)(1)(ii) of this subpart).

(2) All exhaust emission data from the tests conducted before and after the scheduled maintenance provided in § 86.094-25 of this subpart.

(3) All exhaust emission data from tests required by maintenance approved under § 86.094-25 of this subpart, in those cases where the Administrator conditioned his approval for the performance of such maintenance on the inclusion of such data in the deterioration factor calculation.

(4) The manufacturer has the option of applying an outlier test point procedure to completed durability data within its certification testing program for a given model year. The outlier procedure will be specified by the Administrator. For any pollutant, durability-data test points that are identified as outliers shall not be included in the determination of deterioration factors if the manufacturer has elected this option. The manufacturer shall specify to the Administrator before the certification of the first engine family for that model

year, if it intends to use the outlier procedure. The manufacturer may not change procedures after the first engine family of the model year is certified. Where the manufacturer chooses to apply both the outlier procedure and averaging (as allowed under § 86.094-26(a)(6)(i) of this subpart) to the same data set, the outlier procedure shall be completed prior to applying the averaging procedure.

(B)(1) *Line crossing.* For each exhaust constituent to which a standard of § 86.094-8 of this subpart applies, all applicable exhaust emission results shall be rounded to the nearest mile and plotted as a function of the mileage on the system. The best fit straight line, fitted by the method of least squares, shall be drawn through all these data points. The data for a given exhaust constituent will be acceptable for use in the calculation of deterioration factors only if the first official test point as determined in § 86.094-26(a)(4)(i)(C) of this subpart, the interpolated intermediate useful life mile point, and the interpolated full useful life mile point on this line, as applicable, are each less than or equal to the respective low-altitude standards provided in § 86.094-8 of this subpart. An exception to this where data are still acceptable is when a best fit straight line crosses an applicable standard but no data points exceeded the standard. This exception shall not apply when mileage accumulation has been curtailed before the durability useful life has been reached, under the provisions of § 86.094-26(a)(4)(i)(B) of this subpart.

(2) *Exhaust DF determination.* Multiplicative exhaust emission deterioration factors shall be calculated for each standard and for each engine-system combination from points on the regression line derived in paragraph (a)(4)(i)(B)(1) of this section, and in accordance with paragraphs (a)(4)(i)(B)(2) (i) and (ii) of this section.

(i) Factor = Exhaust emissions at the useful life mileage for that standard divided by exhaust emissions at 4,000 miles.

(ii) These interpolated values shall be carried out to a minimum of four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTM E 29-67.

(iii) The calculation specified in this paragraph (a)(4)(i)(B)(2) may be modified with advance approval of the Administrator for engine-system combinations which are certified under the Alternative Service Accumulation

Durability Program specified in § 86.094-13(e) of this subpart.

(C) *Evaporative DF determination.* An evaporative emissions deterioration factor (gasoline-fueled and methanol-fueled vehicles only) shall be determined from the testing conducted as described in § 86.094-21(b)(4)(i) of this subpart, and in accordance with paragraphs (a)(4)(i)(C) (1) and (2) of this section, for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission level at the applicable useful life relative to the evaporative emission level at 4,000 miles as follows.

(1) Factor = Evaporative emission level at the useful life mileage for that standard minus the evaporative emission level at 4,000 miles.

(2) The factor shall be established to a minimum of two places to the right of the decimal.

(ii)(A)(1) The official exhaust emission test results for each applicable exhaust emission standard for each emission-data vehicle at the selected test point shall be multiplied by the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in paragraph (a)(4)(i)(B) of this section is less than one, that deterioration factor shall be one for the purposes of this paragraph.

(2) The calculation specified in paragraph (a)(4)(i)(A)(1) of this section may be modified with advance approval of the Administrator for engine-system combinations which are certified under the Alternative Service Accumulation Durability Program specified in § 86.094-13(e) of this subpart.

(B) The official evaporative emission test results (gasoline-fueled and methanol-fueled vehicles only) for each evaporative emission-data vehicle at the selected test point shall be adjusted by addition of the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in paragraph (a)(4)(i)(C) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(iii) The emissions to compare with the standard (or the family particulate emission limit, as appropriate) shall be the adjusted emissions of paragraphs (a)(4)(ii) (A) and (B) of this section for each emission-data vehicle. Before any emission value is compared with the standard (or the family particulate emission limit, as appropriate), it shall be rounded, in accordance with ASTM E 29-67, to two significant figures. The rounded emission values may not exceed the standard (or the family particulate emission limit, as appropriate).

(iv) Every test vehicle of an engine family must comply with the exhaust emission standards (or the family particulate emission limit, as appropriate), as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that family may be certified.

(v) Every test vehicle of an evaporative emission family must comply with the evaporative emission standard, as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that family may be certified.

(5) If a manufacturer chooses to change the level of any family particulate emission limit(s) in the particulate averaging program, compliance with the new limit(s) must be based upon existing certification data.

(6) If a manufacturer chooses to participate in the diesel particulate averaging program, the production-weighted average of the family particulate emission limits of all affected engine families must comply with the particulate standards in § 86.094-8(a)(1)(iv) of this subpart, or the composite particulate standard defined in § 86.094-2 of this subpart, as appropriate, at the end of the production year.

(7) The procedure to determine the compliance of new motor vehicles in the Production AMA Durability Program (described in § 86.094-13 of this subpart) is the same as described in paragraphs (a)(4)(iii) through (v) of this section. For the engine families that are included in the Production AMA Durability Program, the exhaust emission deterioration factors used to determine compliance shall be those that the Administrator has approved under § 86.094-13 of this subpart. The evaporative emission deterioration factor for each evaporative emission family shall be determined and applied according to paragraph (a)(4) of this section. The procedures to determine the minimum exhaust emissions deterioration factors required under § 86.094-13(d) of this subpart are as follows:

(i) Separate deterioration factors shall be determined from the exhaust emission results of the durability-data vehicles for each emission standard applicable under § 86.094-8 of this subpart, for each engine family group. The evaporative emission deterioration factor for each evaporative family will be determined and applied in accordance with paragraph (a)(4) of this section.

(ii) The deterioration factors for each engine family group shall be determined

by the Administrator using historical durability data from as many as three previous model years. These data will consist of deterioration factors generated by durability-data vehicles representing certified engine families and of deterioration factors from vehicles selected under § 86.094-24(h) of this subpart. The Administrator shall determine how these data will be combined for each engine family group.

(A) The test result to be used in the calculation of each deterioration factor to be combined for each engine family group shall be those test results specified in paragraph (a)(4)(i)(A) of this section.

(B) For each durability-data vehicles selected under § 86.094-24(h) of this subpart, all applicable exhaust emissions results shall be plotted as a function of the mileage on the system rounded to the nearest mile, and the best fit straight lines, fitted by method of least squares, shall be drawn through all these data points. The exhaust deterioration factor for each durability-data vehicles shall be calculated as specified in paragraph (a)(4)(i)(B) of this section.

(C) Line-crossing. The linecrossing criteria of § 86.094-28(a)(4)(i)(B) apply.

(1) The Administrator will not accept for certification line-crossing data from preproduction durability-data vehicles selected under § 86.094-24(c) of this subpart, or § 86.094-24(h)(2) or (3) of this subpart.

(2) The Administrator will not accept for certification line-crossing data from production durability-data vehicles selected under § 86.094-24(h)(1) of this subpart unless the 4,000-mile test result multiplied by the engine family group deterioration factor does not exceed the applicable emission standards. The deterioration factors used for this purpose shall be those that were used in the certification of the production vehicle. Manufacturers may calculate this product immediately after the 4,000-mile test of the vehicle. If the product exceeds the applicable standards, the manufacturer may, with the approval of the Administrator, discontinue the vehicle and substitute a new vehicle. The manufacturer may continue the original vehicle, but the data will not be acceptable if line crossing occurs.

(b) (1) Paragraph (b) of this section applies to light-duty trucks.

(2) Each exhaust and evaporative emissions standard (and family particulate emission limit, as appropriate) of § 86.094-9 of this subpart applies to the emissions of vehicles for the useful life defined for that standard in §§ 86.094-2 and 86.094-9 of this subpart.

(3) Since emission control efficiency generally decreases with the accumulation of mileage on the vehicle, deterioration factors will be used in combination with emission-data vehicle test results as the basis for determining compliance with the standards (or family emission limits, as appropriate).

(4) (i) Paragraph (b)(4) of this section describes the procedure for determining compliance of a new vehicle with exhaust emission standards (or family emission limits, as appropriate), based on deterioration factors supplied by the manufacturers.

(ii) Separate exhaust emission deterioration factors, determined from tests of vehicles, engines, subsystems, or components conducted by the manufacturer, shall be supplied for each standard and for each engine-system combination.

(iii) The official exhaust emission results for each applicable exhaust emission standard for each emission-data vehicle at the selected test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

(iv) The emission values to compare with the standards (or family emission limits, as appropriate) shall be the adjusted emission values of paragraph (b)(4)(iii) of this section rounded to two significant figures in accordance with ASTM E 29-67 for each emission-data engine.

(5)(i) Paragraphs (b)(5)(i) (A) and (B) of this section apply only to manufacturers electing to participate in the particulate averaging program.

(A) If a manufacturer chooses to change the level of any family particulate emission limit(s), compliance with the new limit(s) must be based upon existing certification data.

(B) The production-weighted average of the family particulate emission limits of all applicable engine families, rounded to two significant figures in accordance with ASTM E 29-67, must comply with the particulate standards in § 86.094-9 (a)(1)(iv) or (d)(1)(iv) of this subpart, or the composite particulate standard as defined in § 86.094-2 of this subpart, as appropriate, at the end of the product year.

(ii) Paragraphs (b)(5)(ii) (A) and (B) of this section apply only to manufacturers electing to participate in the NOx averaging program.

(A) If a manufacturer chooses to change the level of any family NOx emission limit(s), compliance with the new limit(s) must be based upon existing certification data.

(B) The production-weighted average of the family NOx emission limits of all applicable engine families, rounded to two significant figures in accordance with ASTM E 29-67, must comply with the NOx emission standards of § 86.094-9(a)(1)(iii) (A) or (B) or (d)(1)(iii) (A) or (B) of this subpart, or the composite NOx standard as defined in § 86.094-2 of this subpart, at the end of the product year.

(6) [Reserved]

(7) (i) Paragraph (b)(7) of this section describes the procedure for determining compliance of a new vehicle with evaporative emission standards. The procedure described here shall be used for all vehicles in all model years.

(ii) The manufacturer shall determine, based on testing described in § 86.091-21(b)(4)(i) of this subpart, and supply an evaporative emission deterioration factor for each evaporative emission family-evaporative emission control system combination. The factor shall be calculated by subtracting the emission level at the selected test point from the emission level at the useful life point.

(iii) The official evaporative emission test results for each evaporative emission-data vehicle at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(iv) The emission value to compare with the standards shall be the adjusted emission value of paragraph (b)(7)(iii) of this section rounded to two significant figures in accordance with ASTM E 29-67 for each evaporative emission-data vehicle.

(8) Every test vehicle of an engine family must comply with all applicable standards (and family emission limits, as appropriate), as determined in paragraphs (b)(4)(iv) and (b)(7)(iv) of this section, before any vehicle in that family will be certified.

(c) (1) Paragraph (c) of this section applies to heavy-duty engines.

(2) The exhaust emission standards (or family emission limits, as appropriate) for Otto-cycle engines in § 86.094-10 of this subpart or for diesel engines in § 86.094-11 of this subpart apply to the emissions of engines for their useful life.

(3) Since emission control efficiency generally decreases with the accumulation of service on the engine, deterioration factors will be used in combination with emission-data engine test results as the basis for determining compliance with the standards.

(4) (i) Paragraphs (c)(4) of this section describes the procedure for determining compliance of an engine with emission standards (or family emission limits, as appropriate), based on deterioration factors supplied by the manufacturer.

(ii) Separate exhaust emission deterioration factors, determined from tests of engines, subsystems, or components conducted by the manufacturer, shall be supplied for each engine-system combination. For Otto-cycle engines, separate factors shall be established for transient HC (OMHCE), CO, and NO_x; and idle CO, for those engines utilizing aftertreatment technology (e.g., catalytic converters). For diesel engines, separate factors shall be established for transient HC (OMHCE), CO, NO_x, and exhaust particulate. For diesel smoke testing, separate factors shall also be established for the acceleration mode (designated as "A"), the lugging mode (designated as "B"), and peak opacity (designated as "C").

(iii) (A) Paragraphs (c)(4)(iii)(A) (1) and (2) of this section apply to Otto-cycle heavy-duty engines.

(1) Otto-cycle heavy-duty engines not utilizing aftertreatment technology (e.g., catalytic converters). For transient HC (OMHCE), CO, and NO_x, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(2) Otto-cycle heavy-duty engines utilizing aftertreatment technology (e.g., catalytic converters). For transient HC (OMHCE), CO, and NO_x, and for idle CO, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

(B) Paragraphs (c)(4)(iii)(B) (1) through (3) of this section apply to diesel heavy-duty engines.

(1) Diesel heavy-duty engines not utilizing aftertreatment technology (e.g., particulate traps). For transient HC (OMHCE), CO, NO_x, and exhaust particulate, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(2) Diesel heavy-duty engines utilizing aftertreatment technology (e.g., particulate traps). For transient HC (OMHCE), CO, NO_x, and exhaust particulate, the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by multiplication by the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than one, it shall be one for the purposes of this paragraph.

(3) Diesel heavy-duty engines only. For acceleration smoke ("A"), lugging smoke ("B"), and peak smoke ("C"), the official exhaust emission results for each emission-data engine at the selected test point shall be adjusted by the addition of the appropriate deterioration factor. However, if the deterioration factor supplied by the manufacturer is less than zero, it shall be zero for the purposes of this paragraph.

(iv) The emission values to compare with the standards (or family emission limits, as appropriate) shall be the adjusted emission values of paragraph (c)(4)(iii) of this section, rounded to the same number of significant figures as contained in the applicable standard in accordance with ASTM E 29-67, for each emission-data engine.

(5)-(6) [Reserved]

(7) Every test engine of an engine family must comply with all applicable standards (or family emission limits, as appropriate), as determined in paragraph (c)(4)(iv) of this section, before any engine in that family will be certified.

(d)(1) Paragraph (d) of this section applies to heavy-duty vehicles equipped with gasoline-fueled or methanol-fueled engines.

(2) The applicable evaporative emission standard in § 86.091-10 or § 86.094-11 of this subpart applies to the emissions of vehicles for their useful life.

(3)(i) For vehicles with a GVWR of up to 26,000 pounds, because it is expected that emission control efficiency will change during the useful life of the vehicle, an evaporative emission deterioration factor shall be determined from the testing described in § 86.088-23(b)(3) of this subpart for each evaporative emission family- evaporative emission control system combination to indicate the evaporative emission control system deterioration during the useful life of the vehicle (minimum 50,000 miles). The factor shall be established to a minimum of two places to the right of the decimal.

(ii) For vehicles with a GVWR of greater than 26,000 pounds, because it is expected that emission control efficiency will change during the useful

life of the vehicle, each manufacturer's statement as required in § 86.088-23(b)(4)(ii) of this subpart shall include, in accordance with good engineering practice, consideration of control system deterioration.

(4) The evaporative emission test results, if any, shall be adjusted by the addition of the appropriate deterioration factor: *Provided*, That if the deterioration factor as computed in paragraph (d)(3) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(5) The emission level to compare with the standard shall be the adjusted emission level of paragraph (d)(4) of this section. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTM E 29-67, to two significant figures. The rounded emission values may not exceed the standard.

(6) Every test vehicle of an evaporative emission family must comply with the evaporative emission standard, as determined in paragraph (d)(5) of this section, before any vehicle in that family may be certified.

14. Section 86.094-30 of subpart A is proposed to be amended by revising paragraph (a)(1)(i) and by adding a new paragraph (a)(14) to read as follows:

§ 86.094-30 Certification.

(a)(1)(i) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.091-7(c) of this subpart and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meets the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraph (a)(1)(ii) of this section and § 86.091-30(c) of this subpart.

(14) For all light-duty vehicles and light-duty trucks certified with an Alternative Service Accumulation Durability Program under § 86.094-13(e) of this subpart, paragraphs (a)(14) (i) through (iii) of this section apply.

(i) All certificates issued are conditional upon the manufacturer performing the in-use verification program pursuant to the agreement described in § 86.094-13(e)(9) of this subpart.

(ii) Failure to fully comply with all the terms of the in-use verification program pursuant to the agreement described in § 86.094-13(e)(9) of this subpart will be

considered a failure to satisfy the conditions upon which the certificate was issued. A vehicle or truck will be considered to be covered by the certificate only if the manufacturer fulfills the conditions upon which the certificate is issued.

(iii) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied.

§ 86.094-35 [Amended]

15. Section 86.094-35 of subpart A is proposed to be amended by removing and reserving paragraphs (a)(2)(iii)(F) and (c)(1)(ii)(B)(2).

16. Section 86.095-14 of subpart A is proposed to be amended by revising paragraphs (a) through (c)(7)(i)(C)(2)(i) and (c)(7)(i)(C)(4) through (c)(11)(ii)(B) revising (15) and by adding and reserving a new paragraph (c)(7)(i)(C)(2)(ii) and to read as follows: paragraph (c)(7)(i)(C)(3):

§ 86.095-14 Small-volume manufacturers certification procedures.

(a) through (c)(7)(i)(C)(2)(i) [Reserved]. For guidance see § 86.092-14.

(c)(7)(i)(C)(2)(ii) [Reserved]

(c) ***

(7) ***

(i) ***

(C) ***

(3) Manufacturers with aggregated sales from 301 through 9,999 motor vehicles and motor vehicle engines and certifying light-duty vehicle exhaust emissions from vehicles equipped with unproven emission control systems shall use deterioration factors that the manufacturer determines from official certification durability data generated by vehicles from engine families representing a minimum of 25 percent of the manufacturer's sales equipped with unproven emission control systems. The sales projections are to be based on total sales projected for each engine/system combination. The durability programs applicable to such manufacturers for this purpose shall be the standard AMA, the production AMA and the alternative service accumulation durability programs of § 86.094-13 of this subpart. The durability-data vehicle (engine) mileage accumulation and emission tests are to be conducted according to § 86.094-13 of this subpart. The manufacturer must develop deterioration factors by generating durability data in accordance with § 86.094-13 of this subpart on a minimum of 25 percent of the manufacturer's projected sales (by

engine/system combination) that is equipped with unproven emission control systems. The manufacturer must complete the 25 percent durability requirement before the remainder of the manufacturer's sales equipped with unproven emission control systems is certified using manufacturer-determined assigned deterioration factors.

Alternatively, any of these manufacturers may, at their option, accumulate miles on durability-data vehicles and complete emission tests for the purpose of establishing their own deterioration factors on the remaining sales.

(c)(7)(i)(C)(4) through (c)(11)(ii)(B)(15) [Reserved]. For guidance see § 86.092-14.

17. Section 86.095-24 of subpart A is proposed to be amended by revising paragraphs (a) through (b)(1)(iv), and (b)(2) through (h) to read as follows:

§ 86.095-24 Test vehicles and engines.

(a) through (a)(7) [Reserved]. For guidance see § 86.092-24.

(a)(8)(i) If the manufacturer elects to participate in the Production AMA Durability Program, the engine families covered by an application for certification shall be grouped based upon similar engine design and emission control system characteristics. Each of these groups shall constitute a separate engine family group.

(a)(8)(ii) through (b)(1)(iv) [Reserved]. For guidance see § 86.092-24.

(b)(2) through (e)(2) [Reserved]. For guidance see § 86.092-24.

(f) Carryover and carry-across of durability and emission data. In lieu of testing an emission-data or durability-data vehicle (or engine) selected under paragraph (c) of this section, and submitting data therefore, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data, as applicable on a similar vehicle (or engine) for which certification has previously been obtained or for which all applicable data required under § 86.090-23 of this subpart has previously been submitted.

(g)(1) through (g)(4) [Reserved]. For guidance see § 86.092-24.

(h) Production AMA Durability Program durability-data vehicles. This paragraph applies to light-duty vehicle and light-duty truck durability-data vehicles selected under the Production AMA Durability Program described in § 86.094-13 of this subpart.

(1) In order to update the durability data to be used to determine a deterioration factor for each engine family group, the Administrator will select durability-data vehicles from the manufacturer's production line. Production vehicles will be selected from each model year's production for those vehicles certified using the Production AMA Durability Program procedures.

(h)(1)(i) through (h)(3) [Reserved]. For guidance see § 86.092-24.

18. Section 86.095-26 of subpart A is proposed to be amended by revising paragraphs (a)(1) through (b)(4)(i)(C) to read as follows:

§ 86.095-26 Mileage and service accumulation; emission measurements.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles. It prescribes mileage and service accumulation requirements for durability data vehicles run under either the Standard AMA Durability Program of § 86.094-13(c) of this subpart or the Production AMA Durability Program of § 86.094-13(d) of this subpart, and for emission data vehicles regardless of the durability program employed. Service accumulation requirements for durability data vehicles run under the Alternative Service Accumulation Program may be found in § 86.094-13(e) of this subpart.

(2) (i) The standard method of whole-vehicle service accumulation for durability vehicles and for emission data vehicles in models years 1994 and 1995 shall be mileage accumulation using the Durability Driving Schedule as specified in Appendix IV to this part. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.129 of subpart B of this part, the manufacturer may elect to conduct the respect emission tests at higher loaded vehicle weight.

(ii) If approved in advance by the Administrator, a substitute whole-vehicle mileage accumulation schedule to that specified in § 86.094-26(a)(2)(i) of this subpart may also be used. The Administrator may approve such a procedure if it is substantially similar to the procedure specified in § 86.094-26(a)(2)(i) of this subpart in its average speed, distribution of speeds, number of stops per mile, number of accelerations to the various speeds per mile. The

Administrator may adopt additional or alternative criteria for evaluating substantially similar mileage schedules, consistent with good engineering practice. The Administrator may also approve a substitute schedule that is not substantially similar to the procedure specified in § 86.094-26(a)(2)(i) of this subpart, based on a demonstration that the schedule will generate deterioration factors that reflect in-use deterioration with reasonable certainty.

(3) Emission-data vehicles. Unless otherwise provided for in § 86.091-23(a) of this subpart, emission-data vehicles shall be operated and tested as follows:

(i) Otto-cycle. (A) The manufacturer shall determine, for each engine family, the mileage at which the engine-system combination is stabilized for emission-data testing. The manufacturer shall maintain, and provide to the Administrator if requested, a record of the rationale used in making this determination. The manufacturer may elect to accumulate 4,000 miles on each test vehicle within an engine family without making a determination. The manufacturer must accumulate a minimum of 2,000 miles (3,219 kilometers) on each test vehicle within an engine family. All test vehicle mileage must be accurately determined, recorded, and reported to the Administrator. Any vehicle used to represent emission-data vehicle selections under § 86.094-24(b)(1) of this subpart shall be equipped with an engine and emission control system that has accumulated the mileage the manufacturer chose to accumulate on the test vehicle. Fuel economy data generated from certification vehicles selected in accordance with § 86.094-24(b)(1) of this subpart with engine-system combinations that have accumulated more than 10,000 kilometers (6,200 miles) shall be factored in accordance with § 600.006 of this chapter. Complete exhaust and evaporative (if required) emission tests shall be conducted for each emission-data vehicle selection under § 86.094-24(b)(1) of this subpart. The Administrator may determine under § 86.094-24(f) of this subpart that no testing is required.

(B) Emission tests for emission-data vehicle(s) selected for testing under § 86.094-24(b)(1) (v) or (viii) of this subpart shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing under high-altitude conditions.

(C) Exhaust and evaporative emissions tests for emission-data vehicle(s) selected for testing under § 86.094-24(b)(1) (i), (ii), (iii), (iv), or

(vii)(B) of this subpart shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing under low-altitude conditions.

(D) For each engine family, the manufacturer will either select one vehicle previously selected under § 86.094-24(b)(1) (i) through (iv) of this subpart to be tested under high-altitude conditions or provide a statement in accordance with § 86.094-24(b)(1)(v) of this subpart. Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. In addition, any emission control device used to conform with the emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

(ii) Diesel. (A) The manufacturer shall determine, for each engine family, the mileage at which the engine-system combination is stabilized for emission-data testing. The manufacturer shall maintain, and provide to the Administrator if requested, a record of the rationale used in making this determination. The manufacturer may elect to accumulate 4,000 miles on each test vehicle within an engine family without making a determination. The manufacturer must accumulate a minimum of 2,000 miles (3,219 kilometers) on each test vehicle within an engine family. All test vehicle mileage must be accurately determined, recorded, and reported to the Administrator. Any vehicle used to represent emission-data vehicle selections under § 86.094-24(b)(1) of this subpart shall be equipped with an engine and emission control system that has accumulated the mileage the manufacturer chose to accumulate on the test vehicle. Fuel economy data generated from certification vehicles selected in accordance with § 86.094-24(b)(1) of this subpart with engine-system combinations that have accumulated more than 10,000 kilometers (6,200 miles) shall be factored in accordance with § 600.006 of this chapter. Complete exhaust emission tests shall be conducted for each emission-data vehicle selection under § 86.094-24(b)(1) of this subpart. The Administrator may determine under § 86.094-24(f) of this subpart that no testing is required.

(B) Emission tests for emission-data vehicle(s) selected for testing under § 86.094-24(b)(1)(v) of this subpart shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing under high-altitude conditions.

(C) Exhaust and evaporative emissions tests for emission-data vehicle(s) selected for testing under § 86.094-24(b) (1) (i), (ii), (iii), (iv), or (vii)(B) of this subpart shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing under low-altitude conditions.

(D) For each engine family, the manufacturer will either select one vehicle previously selected under § 86.094-24(b)(1) (i) through (iv) of this subpart to be tested under high-altitude conditions or provide a statement in accordance with § 86.094-24(b)(1)(v) of this subpart. Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. In addition, any emission control device used to conform with the emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

(4)(i) Durability data vehicles. (A) Unless otherwise provided for in § 86.094-23(a) of this subpart or in paragraph (a)(4)(i)(B) of this section, each durability-data vehicle shall be driven on the whole-vehicle mileage accumulation cycle specified in paragraph (a)(2) of this section, with all emission control systems installed and operating, up to a mileage endpoint corresponding to the vehicle's durability useful life as defined in § 86.094-2 of this subpart.

(B) Extrapolation of durability data and changes to the mileage accumulation cycle.

(1) Once a durability vehicle has reached the greater of 75,000 miles or three-quarters of the applicable durability useful life, the manufacturer may petition the Administrator to extrapolate the durability data obtained up to that point out to the durability useful life or to replace the mileage accumulation cycle with an alternative that meets the criteria of § 86.094-26(a)(2)(ii) of this subpart. In the petition, the manufacturer shall supplement the durability vehicle data with other information demonstrating the durability of the vehicle's emission control components and systems at or beyond the durability useful life.

(2) Factors the Administrator will consider in evaluating petitions for extrapolation of durability data or for changes to the mileage accumulation cycle include, but are not limited to, any unusual scheduled maintenance, unscheduled maintenance, the general linearity and scatter of the actual data, reasonable explanations for all outlier data, the technical validity of any

substitute mileage accumulation cycle, and the manufacturer-supplied evidence of component and system durability.

(3) If a petition for extrapolation of durability data is approved, the endpoint for whole-vehicle mileage accumulation of the durability data vehicle shall be the mileage attained by the vehicle as reflected in the petition.

(4) Discontinuation of a durability-data vehicle shall be allowed only with the consent of the Administrator.

(C) Complete exhaust emission tests shall be made at test point mileage intervals that the manufacturer determines. At a minimum, two complete exhaust emission tests shall be made. The first test shall be made at a distance not greater than 6,250 miles. The last shall be made at the mileage accumulation endpoint determined in paragraph (a)(4) (A) or (B), whichever is applicable.

(D) Except with advance approval of the Administrator, the mileage interval between test points must be of equal length except for the interval between zero miles and the first test, and any interval before or after testing conducted in conjunction with vehicle maintenance as specified in § 86.094-25(g)(2) of this subpart.

(ii) The manufacturer may, at its option, alter the durability-data vehicle at the selected test point to represent emission-data vehicle(s) within the same engine-system combination and perform emission tests on the altered vehicle. Upon completion of emission testing, the manufacturer may return the test vehicle to the durability-data vehicle configuration and continue mileage accumulation.

(a)(5) through (a)(7) [Reserved]. For guidance see § 86.092-26.

(a)(8) The data from emissions data vehicles and durability data vehicles obtained pursuant to the provisions of this section will be used in the calculations under § 86.094-28 of this subpart.

(a)(9) through (b)(1) [Reserved]. For guidance see § 86.092-26.

(b)(2) There are four types of mileage or service accumulation applicable to light-duty trucks, described in paragraphs (b)(2) (i) through (iv) of this section.

(i) Service accumulation conducted under the Standard Self-Approval Durability Program of § 86.094-13(f) of this subpart. This type of service accumulation is applicable for model years 1994 and 1995 only. The manufacturer determines the form and extent of this service accumulation, consistent with good engineering practice, and describes it in the application for certification. Service accumulation under the Standard Self-Approval Durability Program is conducted on vehicles, engines, subsystems, or components selected by the manufacturer under § 86.094-24(c)(2)(i) of this subpart.

(ii) Service accumulation conducted under the Alternative Service Accumulation Durability Program of § 86.094-13(e) of this subpart. This type of service accumulation is applicable for model years 1994 and 1995 only. The service accumulation method is developed by the manufacturer to be consistent with good engineering practice and to accurately predict the deterioration of the vehicle's emissions in actual use over its full useful life. The method is subject to advance approval by the Administrator and to verification by an in-use verification program conducted by the manufacturer under § 86.094-13(e)(5) of this subpart.

(iii) Mileage accumulation of the duration selected by the manufacturer on emission-data vehicles selected under § 86.094-24(b)(1) of this subpart. The procedure for mileage accumulation will be the Durability Driving Schedule as specified in appendix IV to this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 86.129 of subpart B of this part, the manufacturer may elect to conduct the respective emission tests at higher loaded vehicle weight.

(iv) Service or mileage accumulation which may be part of the test procedures used by the manufacturer to

establish evaporative emission deterioration factors.

(3) Exhaust emission deterioration factors will be determined on the basis of the mileage or service accumulation described in paragraphs (b)(2) (i) or (ii) of this section and related testing, according to the manufacturer's procedures.

(b)(4) through (b)(4)(i)(C) [Reserved]. For guidance see § 86.092-26.

19. Section 86.095-30 of subpart A is proposed to be amended by adding a new paragraph (a)(14) to read as follows:

§ 86.095-30 Certification.

(a) * * *

(14) For all light-duty vehicles and light-duty trucks certified with an Alternative Service Accumulation Durability Program under § 86.094-13(e) of this subpart:

(i) All certificates issued are conditional upon the manufacturer performing the in-use verification program pursuant to the agreement described in § 86.094-13(e)(9) of this subpart.

(ii) Failure to fully comply with all the terms of the in-use verification program pursuant to the agreement described in § 86.094-13(e)(9) of this subpart will be considered a failure to satisfy the conditions upon which the certificate was issued. A vehicle will be considered to be covered by the certificate only if the manufacturer fulfills the conditions upon which the certificate is issued.

(iii) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied.

§ 86.095-35 [Amended]

20. Section 86.095-35 of subpart A is proposed to be amended by removing and reserving paragraphs (a)(2)(iii)(F) and (c)(1)(ii)(B)(2).

[FR Doc. 92-9287 Filed 4-29-92; 8:45 am]

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Thursday
April 30, 1992

Order Paper

Part III

Department of Commerce

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities; Acceptance of Applications for Filing; Notice

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities; Acceptance of Applications for Filing

I. New Applications and Major Amendments to Deferred Applications

Notice is hereby given that the following described applications for Federal financial assistance are accepted for filing under provision title III, part IV, of the Communications Act of 1934, as amended (47 U.S.C. 390-393, 397) and in accordance with 15 CFR part 2301. All of the applications listed in this section were received by March 5, 1992. The effective date of acceptance of these proposals, unless otherwise indicated herein, is "Date Received". Applications are listed by their State.

The acceptance of applications for filing is a procedure designed for making preliminary determinations of eligibility and for providing the opportunity for public comment on applications. Acceptance of an application does not preclude subsequent return or disapproval of an application if it is found to be not in accordance with the provision of either the Act or 15 CFR part 2301, or if the applicant fails to file any additional information requested by the Public Telecommunications Facilities Program (PTFP).

Acceptance for filing does not ensure that an application will be funded; it merely qualifies that application to compete for funding with other applications which have also been accepted for filing.

Any interested party may file comments with the Agency supporting or opposing an application and setting forth the grounds for support or opposition. Such comments must contain a certification that a copy of the comments has been delivered to the applicant. Comments must be sent to the address listed in 15 CFR 2301.5(a).

The Agency will incorporate all comments from the public and any replies from the applicant in the applicant's official file.

Dennis R. Connors,
Associate Administrator.

As of 04/22/92

AK (Alaska)

File No. 92007 CTB Bethel Broadcasting, Inc., 640 Radio Street, Bethel, AK 99559-. Signed By: Mr. Andrew J. Guy, President. Funds Requested: \$271,675. Total Project Cost: \$362,234. To improve the operation of

public television station KYUK-TV, operating on channel 4, Bethel, AK, by replacing worn out and obsolete studio production equipment including video tape recorders, switcher, cameras and test equipment to better serve 8,000 residents of western Alaska.

File No. 92031 CRB Silakkuagvik Communications, Inc., P.O. Box 109, Barrow, AK 99723-. Signed By: Mr. Donovan J. Rinker, General Manager. Funds Requested: \$177,000. Total Project Cost: \$236,000. To improve the operation of public radio station KBRW-AM operating on 680 KHz, Barrow, AK, by replacing obsolete and outdated STL, studio recording equipment and by installing a backup electrical generator at the transmitter site to assure stable public radio service to 8,100 residents of the Alaska north slope.

File No. 92054 CRB Koahnic Broadcast Corporation, 2525 C Street, Suite 507, Anchorage, AK 99509-3330. Signed By: Mr. John Monfor, Jr., chairperson. Funds Requested: \$420,383. Total Project Cost: \$560,511. To establish an Alaska native controlled public radio station operating on 90.3 MHz, Anchorage, AK, to serve the education and information needs of the various ethnic minority residents of south-central Alaska from Alaska's largest city.

File No. 92145 CRB Alaska Public Radio Network (APRN), 801 E. 9th Avenue, Anchorage, AK 99501-. Signed By: Ms. Diane Kaplan, President & CEO. Funds Requested: \$33,737. Total Project Cost: \$44,983. To extend and improve the programming capability of public radio station KNSA-AM, operating on 930 KHz, Unalakleet, AK, by installing a satellite receive dish to bring satellite delivered programming to 850 residents of rural Alaska.

File No. 92166 CTB Capital Community Brdcstg, Inc., Juneau, AK 99801-. Signed By: Mr. Bill Legere, President & General Manager. Funds Requested: \$393,750. Total Project Cost: \$525,000. To improve the production capability of public television station KTOO-TV, operating on channel 3, Juneau, AK, by replacing obsolete VTRs, graphics generator, switcher, camera, audio console and video distribution system to better serve 60,000 residents of southeast Alaska.

File No. 92313 CRB Lynn Canal Broadcasting, Inc., P.O. Box 1109, Haines, AK 99827-. Signed By: Mr. Lee Heinmiller, President. Funds Requested: \$27,375. Total Project Cost: \$36,500. To improve the production and transmission facilities of public radio station KHNS-FM, operating on 102.3 Mhz, Haines, AK, by replacing obsolete transmitter remote control and studio

production equipment to better serve 4,000 residents of southeast Alaska.

AL (Alabama)

File No. 92126 CRB TSU-ASU Broadcasting Corporation, Troy, AL 36082-. Signed By: Mr. John F. Knight, Jr., President. Funds Requested: \$222,910. Total Project Cost: \$297,214. To activate a public radio station operating at 88.3 MHz, to serve Selma, AL, and vicinity. The station will be constructed and operated by TSU-ASU Public Radio Corporation, an entity formed by Troy State University and Alabama State University, and used in conjunction with Troy State University's Hall School of Journalism and Alabama State University's Department of Communications Media.

File No. 92170 CTN Shelton State Community College, 202 Skyland Boulevard, Tuscaloosa, AL 35405-. Signed By: Mr. Thomas E. Umphrey, President. Funds Requested: \$865,471. Total Project Cost: \$1,153,962. To purchase studio and interconnection equipment to link two Historically Black Colleges—C. A. Fredd State Technical College and Stillman College—to four state community colleges in central, west-central and northwest Alabama.

File No. 92183 CTB Alabama A&M University, 4900 Meridian Street, Normal, AL 35762-. Signed By: Mr. Ira L. Williams, II, VP-Business and Finance. Funds Requested: \$173,200. Total Project Cost: \$346,400. To improve the service of the Alabama Public Television Commission's to its nine transmitters throughout the state by replacing and upgrading the production facilities of Alabama A&M's Telecommunications Center. Specifically, outmoded 2" equipment will be replaced with 1" facilities; equipment to be acquired includes CCD cameras, an audio production console, speakers, monitors, a dual-channel still store, Beta recorders and editing facilities, a special effects generator, and portable Beta cameras. Alabama A&M is an historically Black institution and produces programming for the state network directed toward a minority audience.

AR (Arkansas)

File No. 92148 CRB Arkansas State University, 104 Cooley, Jonesboro, AR 72467-. Signed By: Ms. Arlis J. Johnson, V.P. for Finance & Admin. Funds Requested: \$226,909. Total Project Cost: \$306,909. To extend and improve the service of public radio station KASU-FM, 91.9 MHz, Jonesboro, AR, by moving the transmission system to a new site, which will effectively increase the coverage area by 18 percent, and to

replace the transmitter, antenna, exciter, and related equipment. KASU-FM currently serves approximately 208,638 listeners in northeast Arkansas and southern Missouri; this improvement will provide approximately 36,854 listeners with first public radio service, and approximately 4,124 listeners with a second public radio signal.

File No. 92221 CTB Arkansas Educational TV Commission, 350 South Donaghey Street, Conway, AR 72032-. Signed By: Ms. Susan Howarth, Executive Director. Funds Requested: \$70,400. Total Project Cost: \$140,800. To improve the services of the Arkansas Educational Television Network by replacing worn-out and outdated transmission lines at three transmission sites: KAFT-TV (Fayetteville); KETG-TV (Arkadelphia); and KTEJ-TV (Jonesboro). The existing rigid coaxial transmission lines were installed over fourteen years ago and are subject to repeated burn-out.

AZ (Arizona)

File No. 92206 CTB Arizona State University, Tempe, AZ 85287-1903. Signed By: Ms. Janice Bennett, Interim Assistant Director. Funds Requested: \$258,620. Total Project Cost: \$517,240. To improve the facilities of public television station KAET-TV, Channel 8, in Tempe by replacing worn-out and obsolete production equipment including its production switching system, four broadcast video tape recorders, two color monitors and one still-store. KAET-TV provides public television to approximately 2,750,000 persons which is about 1/4 of the population of AZ.

File No. 92282 CTN Northern Arizona University, Box 5751, Flagstaff, AZ 86011-5751. Signed By: Dr. Jeanette S. Baker, Assoc. VP, Univ. Relations. Funds Requested: \$3,494,509. Total Project Cost: \$4,659,345. To construct a two-way interactive microwave system that will involve 12 receive sites—with another 15 interconnect sites—throughout much of northern Arizona, based at Northern Arizona University, Flagstaff. The project will also purchase studio equipment for the participating sites. When completed, the system will allow the exchange of instructional programming among academic institutions on or near the Navajo, Hopi, Apache, and Mojave Indian Reservations.

File No. 92322 CRB Chinle Unified Schools No. 24, Navajo Route 7, Chinle, AZ 86503-. Signed By: Mr. Dean Jackson, Superintendent. Funds Requested: \$112,368. Total Project Cost: \$149,825. To activate a new public radio station on 90.5 MHz, in Chinle. New station would be a Rocky Mountain

Alternative station which would re-broadcast the signal of station KNAU-FM, Flagstaff, as well as provide local origination. Station would be a first public radio station for approximately 4,626 residents of Chinle and the communities served by the school district in Apache County Arizona.

CA (California)

File No. 92029 CTB Mono County Superintendent of Schools, Emigrant St., P.O. Box 477, Bridgeport, CA 95317-0477. Signed By: Mr. Edward J. Inwood, County Superintendent. Funds Requested: \$115,189. Total Project Cost: \$220,253. To construct five low-power television stations in east-central California that will bring the first public television signal to over 13,000 residents of the covered area. The stations will be established in the communities of Bridgeport, Coleville, Lee Vining, Benton, and Paradise, all in Mono County, CA. The stations will be associated with the Rural Television Service, Inc., Carson City, NV.

File No. 92036 CTB Valley Public Television, Inc., 1544 Van Ness Avenue, Fresno, CA 93721-. Signed By: Mr. Colin Dougherty, Executive Director/Gen. Mgr. Funds Requested: \$502,479. Total Project Cost: \$1,046,831. To improve the production and transmission capability of public television station KVPT-TV, operating on channel 18 Fresno, CA, by replacing worn out and obsolete studio production and master control equipment to better serve 1,168,000 residents of the San Joaquin Valley.

File No. 92043 CRB Audio Vision Radio Reading Service, 34475 Yucaipa Blvd., Suite 8, Yucaipa, CA 92399-. Signed By: Mr. Tom Rash, Executive Director. Funds Requested: \$31,184. Total Project Cost: \$41,578. To improve the production capability of Audio Vision Radio Reading Service operating on a subcarrier channel of KVCR-FM, San Bernardino, CA, by replacing worn out studio equipment to better serve the visually impaired population of southern California.

File No. 92073 PTN U.S. Distance Learning Association, 2401 Crow Canyon Rd., Suite 310, San Ramon, CA 94583-. Signed By: Mr. Patrick S. Portway, Executive Director. Funds Requested: \$293,000. Total Project Cost: \$293,000. To develop a national infrastructure plan for distance learning distribution. The major element of the project would be a four-day forum dedicated to the discussion and formulation of the basic elements of such a plan. The forum would be attended by at least 100 representatives of distance learning providers and users.

File No. 92136 CRB Pacific Public Radio, Inc., 1945 Palo Verde Avenue, Ste 204, Long Beach, CA 90815-. Signed By: Mr. Richard Lewis, President & General Manager. Funds Requested: \$58,353. Total Project Cost: \$116,707. To improve the production and transmission capability of public radio station KLON-FM, operating at 88.1 MHz in Long Beach, CA, by replacing worn out production and test equipment to better serve 6 million residents of the greater Los Angeles area.

File No. 92137 CRB California State University, 3416 American River Dr. Ste. B, Sacramento, CA 95864-. Signed By: Mr. Phil Corriveau, GM/Licensee Designate. Funds Requested: \$70,436. Total Project Cost: \$140,873. To improve the transmission and production capability of public radio stations KXPR-FM and KXJZ-FM operating on 90.9 MHz and 88.9 MHz respectively in Sacramento, CA, by replacing worn out and obsolete satellite demodulators, STL, stereo generator, various production apparatus and test equipment to better serve 627,000 residents of Sacramento and the central valley of California.

File No. 92138 CRB Escuela de la Raza Unida, 137 N. Broadway/P.O. Box 910, Blythe, CA 92225-. Signed By: Ms. Carmela Garnica, Director. Funds Requested: \$78,469. Total Project Cost: \$104,825. To extend and improve the signal of public radio station KERU-FM, operating on 88.5 MHz, Blythe, CA, by increasing power from 10 watts to 3 Kw and installing additional studio production facilities to bring the station to a full complement of equipment. The power increase will provide a first public radio service to 16,000 residents of the Palo Verde Valley area.

File No. 92149 CRB Univ. Found., CA State Univ. Chico, West First & Normal Streets, Chico, CA 95929-. Signed By: Ms. Elaine Wangberg, Research Officer. Funds Requested: \$434,665. Total Project Cost: \$579,554. To construct a public radio station in Redding, CA and translators to serve Bieber (91.1 MHz), Burney (91.9 MHz), Chester (89.7 MHz), Dunsuir (91.9 MHz), Hayfork (94.3 MHz), Mineral (90.7 MHz), Susanville (90.7 MHz) and Yreka (90.7 MHz.) The Redding station will operate on either 88.9 MHz or 90.9 MHz, dependent on FCC approval, and will rebroadcast the signal of KCHO, 91.7 MHz, Chico to be fed to Redding via microwave as part of this project. The station will have studios in Redding and will provide an instructional radio service on SCA channels in cooperation with the Cal State Un Chico Center for Regional and Continuing Education. Public radio

service to a portion of this area is provided by stations located at Mt. Shasta, Yreka, and Burney, all of which rebroadcast service from KSOR, Ashland, OR, and a translator serving Susanville, which rebroadcasts KUNR, Reno, NV.

File No. 92151 CTN Imperial County Ofc. of Education, 1398 Sperber Road, El Centro, CA 92243-. Signed By: Mr. William H. Fisher, Assoc. Superintendent. Funds Requested: \$200,792. Total Project Cost: \$248,999. To improve the production capability of the Imperial County Office of Education, El Centro, CA. The project will purchase diverse items of studio equipment which enhance the applicant's ability to produce instructional programming, which is distributed via cable television.

File No. 92167 CTN California St. Univ. Foundation, 400 Golden Shore, Long Beach, CA 90802-. Signed By: Mr. Robert D. Manners, President. Funds Requested: \$1,079,528. Total Project Cost: \$2,159,056. To purchase compressed video equipment for the 20 campuses and two headquarters offices of the California State University. The equipment will permit interactive video transmission among the 22 sites for purposes of instruction, student support services, and academic planning.

File No. 92175 CTB Minority Television Project, Inc., 71 Stevenson Street, 19th Floor, San Francisco, CA 94105-. Signed By: Ms. Bonnie Asano, Secretary. Funds Requested: \$2,192,248. Total Project Cost: \$2,922,999. To improve the operation of public television station KMPT-TV operating on channel 32, San Francisco, CA, by replacing its 27-year-old transmitter and STL, installing a master control system, EFP apparatus, new production equipment and a satellite receive terminal to serve 1.5 million Bay Area minority viewers. The station will also provide service to 5.7 million non-minority residents of the Bay Area.

File No. 92190 PTN Bakersfield College, 1801 Panorama Drive, Bakersfield, CA 93305-. Signed By: Dr. Richard L. Wright, President. Funds Requested: \$46,961. Total Project Cost: \$83,091. To enable Bakersfield college and the Kern Educational Television Consortium in Bakersfield, CA, to design a multiple channel instructional video delivery system. Distribution systems may include ITFS, broadcast translators, cable television interconnect, and the use of CODEC equipment and fiber optic lines. The project would also enable the Kern Educational Television Consortium to explore the possibilities of expanding the planned ITFS system to a larger service area beyond the Bakersfield metropolitan area.

File No. 92210 CTB Community TV of Southern Calif., 4401 Sunset, Los Angeles, CA 90027-. Signed By: Mr. Donald C. Youpa, Executive Vice President. Funds Requested: \$799,735. Total Project Cost: \$1,599,470. To upgrade the program production capability of public television station KCET-TV operating on channel 28, Los Angeles, CA, by replacing obsolete field production equipment and an urgently needed stage lighting system to provide programming to 13,916,000 residents of the greater Los Angeles metropolitan area and to continue to produce programming for national distribution.

File No. 92224 CRB Radio Bilingue, Inc., 1111 Fulton Mall, Suite 700, Fresno, CA 93721-. Signed By: Mr. Hugo Morales, Executive Director. Funds Requested: \$176,775. Total Project Cost: \$235,700. To construct a public radio satellite uplink to make the applicant's Spanish language programming available 24 hours a day to public radio stations throughout the United States that seek to serve the Spanish-speaking Latino populations of their regions. The applicant operates Spanish language public radio stations KSJV-FM Fresno, KMPO-FM Modesto/Stockton, KTQX-FM Bakersfield and KUBO-FM El Centro, CA.

File No. 92233 CTB Rural California Broadcasting Corp., 5850 Labath Avenue, Rohnert Park, CA 94928-. Signed By: Mr. Marc Libarle, President, Board of Directors. Funds Requested: \$72,962. Total Project Cost: \$145,924. To improve the production and programming capability of public television station KRCB-TV, Channel 22, Rohnert Park, CA, by replacing obsolete master control and test apparatus needed to bring programming to residents of the Napa Valley.

File No. 92270 CRB Rural CA Broadcasting Corporation, 5850 Labath Avenue, Rohnert Park, CA 94928-. Signed By: Mr. Marc Libarle, President, Board of Directors. Funds Requested: \$106,882. Total Project Cost: \$142,510. To establish a noncommercial FM radio station operating on 91.1 MHz Santa Rosa, CA, to bring English language, NPR, and APR programming service to 35,378 residents of the Napa Valley.

File No. 92275 CRB Pasadena Area Comm. College Dist., 1570 East Colorado Boulevard, Pasadena, CA 91106-2003. Signed By: Mr. William Goldmann, Asst. Pres./Superintendent. Funds Requested: \$99,567. Total Project Cost: \$199,134. To improve the operation of public radio station KPCC-FM operating on 89.3 MHz Pasadena, CA, by replacing obsolete production, STL and test equipment necessary to deliver

programming to 11 million residents of the Los Angeles area.

File No. 92288 CRB Santa Monica Community College Dist., 1900 Pico Blvd., Santa Monica, CA 90405-. Signed By: Mr. Thomas J. Donner, Deputy Superintendent. Funds Requested: \$93,435. Total Project Cost: \$124,680. To extend the signal of public radio station KCRW-FM, operating on 89.9 MHz, Santa Monica, CA, by constructing a new 29 Kw satellite station operating on 88.7 MHz in Mojave, California to bring a first public radio service to 50,000 residents of the southern Kern and northern Los Angeles Counties.

File No. 92290 CRB KQED, Inc., 2601 Mariposa St., San Francisco, CA 94110-. Signed By: Mr. Eugene S. Zastrow, Executive Vice President. Funds Requested: \$75,006. Total Project Cost: \$150,012. To improve the production and transmission capability of public radio station KQED-FM operating on 88.5 MHz by replacing a 13 year old transmitter remote control unit, an audio control board and aging tape recorders used to produce programming for 5 million residents of the San Francisco Bay Area and for national distribution.

File No. 92292 CRB Poor People's Radio, Inc., 1329 Divisadero, San Francisco, CA 94115-. Signed By: Mr. Joe Rudolph, General Manager. Funds Requested: \$72,525. Total Project Cost: \$96,700. To improve the production and transmission capability of public radio station KPOO-FM, operating on 89.5 MHz in San Francisco, CA, by replacing a wornout and obsolete remote control system and studio equipment used to provide programming to 900,000 minority community members in the Bay Area.

CO (Colorado)

File No. 92082 CRB Denver Educational Broad., Inc., P.O. Box 11111, Denver, CO 80211-. Signed By: Ms. Florence Hernandez-Ramos, General Manager and President. Funds Requested: \$354,446. Total Project Cost: \$472,595. To improve public radio station KUVU-FM, operating on 89.3 MHz in Denver, CO, by replacing worn-out transmission equipment and upgrading studio origination facilities to deliver programming to residents of Colorado.

File No. 92088 CRB Public Broadcasting of CO., Inc., 2249 South Josephine Street, Denver, CO 80210-. Signed By: Mr. Max Wycisk, General Manager. Funds Requested: \$49,657. Total Project Cost: \$66,210. To establish a noncommercial FM repeater radio station, operating on 90.1 MHz in Vail, CO, to provide first signal to the Vail/Eagle valley.

File No. 92112 CRB Colorado State University, Fort Collins, CO 80523-. Signed By: Mr. Albert Yates, Pres. and Chancellor of CSU Sys. Funds Requested: \$89,797. Total Project Cost: \$179,594. To extend the signal and improve public radio station KCSU-FM in Fort Collins, CO, by increasing power, changing from a 100 foot tower to a 400 foot tower and changing Frequency from 90.5 MHz to 89.7 MHz.

File No. 92199 CRB San Miguel Educational Fund, Inc., 207 No. Pine, Telluride, CO 81435-. Signed By: Ms. Cynthia Obrand, General Manager. Funds Requested: \$14,889. Total Project Cost: \$19,852. To upgrade public radio station KOTO-FM, operating on 91.7 MHz in Telluride, CO, by adding on-site and studio production facilities to deliver programming to the service area.

File No. 92266 CTB Town of Red Cliff, 400 Pine Street, Red Cliff, CO 81647-. Signed By: Mr. Walter Fox, Mayor. Funds Requested: \$61,098. Total Project Cost: \$81,464. To establish a noncommercial low-power TV station, operating on Channel 62 in Red Cliff, CO, to provide first signal to this isolated area, via TCI which operates Netlink, providing the overland microwave service.

File No. 92280 CRB Carbondale Community Access Radio, 417 Main Street, Carbondale, CO 81623-. Signed By: Ms. Julie Ross, Station Manager. Funds Requested: \$41,254. Total Project Cost: \$55,006. To improve public radio station KDNK-FM, operating on 90.5 MHz in Carbondale, CO, by replacing the on-air audio console and upgrading local origination equipment.

File No. 92323 CTB South Fork TV Association, 0057 Paiute Tr., Del Norte, CO 81132-. Signed By: Mr. L.D. Fleming, President. Funds Requested: \$33,075. Total Project Cost: \$44,100. To extend public TV programming service to the unserved, isolated area of South Fork/Del Norte in CO, by activating a translator near Del Norte (receiving its signal from KTSC-TV in Pueblo) and feeding it to a translator near South Fork, CO.

CT (Connecticut)

File No. 92015 CRB Connecticut Public Brdcstg, Inc., 240 New Britain Avenue, Hartford, CT 06126-0240. Signed By: Mr. Jerry Franklin, President. Funds Requested: \$108,402. Total Project Cost: \$216,805. To purchase transmission, origination and interconnection equipment to improve the operation of the Connecticut state public radio system. The project would provide a new FM transmitter for WPKT-FM, operating at 90.5 Mhz, Meriden, CT, purchase and audio console, DAT and

analog tape recorders for the system's main production studio in Hartford, and replace STL microwave equipment, which must be replaced to comply with FCC regulations.

File No. 92128 CRB Sacred Heart University, 5151 Park Avenue, Fairfield, CT 06432-1000. Signed By: Mr. Anthony Cernera, Ph.D, President. Funds Requested: \$470,879. Total Project Cost: \$627,840. To extend the signal of public radio station WSHU-FM operating on 91.1 MHz, Fairfield, CT, by installing a full power repeater station in Shirley, NY, operating at 88.3 MHz to provide a first public radio service to 450,000 unserved or underserved residents of Long Island.

File No. 92216 PTN The Hartford Graduate Center, 275 Windsor Street, Hartford, CT 06120-2991. Signed By: Mr. Worth Loomis, President. Funds Requested: \$33,950. Total Project Cost: \$67,900. To plan for and determine the telecommunications technologies needed to establish a statewide distance learning network of colleges, universities and businesses in Connecticut, through the Hartford Graduate Center, in affiliation with Rensselaer Polytechnic Institute. The distance learning network would provide education, training, and shared instructional resources from Hartford, CT, and other locations.

DC (District of Columbia)

File No. 92105 CTB Howard University, 2222 Fourth Street, NW., Washington, DC 20059-. Signed By: Mr. James A. Fletcher, II, V.P., Bus. & Fiscal Affairs. Funds Requested: \$117,314. Total Project Cost: \$234,628. To improve the service of public television station WHMM-TV, Ch. 32, Washington, DC, by upgrading the station's transmitter. Equipment to be acquired includes a second Aural Amplifier (AAA/6KW), which will decrease service interruption and serve as a backup system, along with equipment required to allow the station to broadcast in stereo. WHMM-TV serves 1.7 million households in the District of Columbia, Northern Virginia, and suburban Maryland.

File No. 92121 CRB University of D.C., 4200 Connecticut Avenue, NW., Washington, DC 20008-. Signed By: Ms. Martha J. Bridgeforth, Acting V.P. Inst. Advancement. Funds Requested: \$86,969. Total Project Cost: \$173,938. To improve the service of public radio station WDCU-FM, 90.1 MHz, Washington, DC, by replacing the transmitter remote control and related equipment; production and broadcast equipment; and by acquiring a minivan for live remote broadcasts. WDCU is the public broadcasting service of the

University of the District of Columbia and serves an audience of more than 2 million in the District of Columbia, Northern Virginia, and suburban Maryland area.

File No. 92132 PTN Counc. of Ch. State Sch. Officers, One Mass. Ave., NW., Suite 700, Washington, DC 20001-. Signed By: Mr. Gordon M. Ambach, Executive Director. Funds Requested: \$299,710. Total Project Cost: \$315,960. To develop a comprehensive national plan for the distribution of distance learning. The Council will convene a consortium of educators, telecommunications providers and Federal agencies to accomplish the planning. Among the objectives would be the strengthening of planning among Federal agencies regarding the application of telecommunications to achieve the National Goals of Education and, in the longer term, the establishment of a forum for policymakers and telecommunications users and providers so as to allow them a means of offering continuing advice on the implementation of the plan.

File No. 92259 PTN Assoc. of America's PTV Stations, 1350 Conn. Ave., NW., Suite 200, Washington, DC 20036-. Signed By: Mr. Richard Grefé, Vice President. Funds Requested: \$383,213. Total Project Cost: \$469,673. To develop a comprehensive plan for the national distribution of distance learning. The project will establish an Educational Telecommunications Partnership, composed of representatives of diverse elements of the education community, the U. S. Government, the U. S. Congress, business and state governments. The Aspen Institute will serve as a neutral convenor of the participating entities and as a facilitator to help reach consensus on guidelines to use under different scenarios by Federal agencies in funding the development of distance learning projects.

File No. 92318 PTN Amer. Indian Higher Ed. Consortium, 513 Capitol Court NE., No. 100, Washington, DC 20002-. Signed By: Dr. David M. Gipp, President, AIHEC. Funds Requested: \$250,000. Total Project Cost: \$250,000. To help the American Indian Higher Education Consortium (AIHEC) develop a plan to identify how the AIHEC's 26 U. S. member-schools can more effectively achieve their missions through use of telecommunications technologies.

FL (Florida)

File No. 92002 CRB University of Florida, 219 Grinter Hall, Gainesville, FL 32611-. Signed By: Mr. Dillard Marshall, Asst. Dir. of Sponsored Res. Funds

Requested: \$56,974. Total Project Cost: \$91,305. To extend and improve the service of public radio station WUFT-FM, 89.1 MHz, Gainesville, FL, by initiating a Radio Reading Service to serve approximately 42,746 vision-impaired listeners in the Gainesville, FL, area. Equipment to be installed includes an audio console, mixer, microphones, recorders, and related equipment. WUFT-FM serves approximately 1.5 million listeners in the Gainesville area.

File No. 92008 CTB University of Florida, 1200 Weimer Hall, Gainesville, FL 32611-. Signed By: Mr. Dillard Marshall, Asst. Dir. Sponsored Research. Funds Requested: \$242,020. Total Project Cost: \$484,040. To improve the service of public television station WUFT-TV, Ch. 5, Gainesville, FL, by replacing four malfunctioning studio cameras. WUFT-TV serves approximately 329,740 viewers in north-central Florida.

File No. 92052 CTB Community Communications, Inc., 11510 East Colonial Drive, Orlando, FL 32817-4699. Signed By: Mr. Malcolm Wall, Executive Vice President. Funds Requested: \$199,403. Total Project Cost: \$398,806. To improve the service of public television station WMFE-TV, Ch. 24, Orlando, FL, by replacing three obsolete studio cameras and associated equipment. WMFE-TV is one of two public television stations serving the 2,379,600 residents of the Orlando area.

File No. 92062 CTB FL West Coast Public Brdcstg, Inc., 1300 North Boulevard, Tampa, FL 33607-. Signed By: Mr. Stephen L. Rogers, President & CEO. Funds Requested: \$534,559. Total Project Cost: \$1,069,118. To improve the service of public television station WEDU-TV, Tampa, FL, by replacing worn-out and inefficient origination facilities, including off-line editing and production control equipment (editor, graphics equipment, controller, mixer, etc.) and master control room tape machines. WEDU-TV serves approximately 3.4 million viewers in the Tampa, FL, metropolitan area.

File No. 92080 CTB School Board of Dade County FL, 172 NE 15th Street, Miami, FL 33132-. Signed By: Mr. Octavio Visiedo, Superintendent of Schools. Funds Requested: \$142,500. Total Project Cost: \$285,000. To improve the service of public television station WLRN-TV, Ch. 17, Miami, FL, by replacing a failed UHF antenna. WLRN-TV is the public television service of the School Board of Dade County, FL, and provides English- and Spanish-language educational programming to the schools of the Miami Metropolitan area. WLRN-TV has a viewership of approximately 3.2 million.

File No. 92115 CRB Key West Public Radio, Inc., 1020 SW 21st Lane, Boca Raton, FL 33486-. Signed By: Mr. Brian Brightly, President. Funds Requested: \$255,000. Total Project Cost: \$340,481. To activate a public radio station to serve Key West, FL. The programming would be delivered via satellite from public radio station WUSF-FM (Tampa, FL) until the new station develops sufficient capabilities to produce the bulk of its schedule locally.

File No. 92153 CTN University of North Florida, 4567 St. Johns Bluff Rd, South, Jacksonville, FL 32216-6699. Signed By: Mr. Adam W. Herbert, President. Funds Requested: \$1,583,146. Total Project Cost: \$2,110,864. To establish a four-channel ITFS system that will transmit the applicant's instructional programming to diverse audiences in the greater Jacksonville, FL, area: businesses, government agencies, secondary schools, retirement communities and military bases.

File No. 92155 CTBN Brevard Community College, 1519 Clearlake Road, Cocoa, FL 32922-. Signed By: Mr. Maxwell C. King, President. Funds Requested: \$819,937. Total Project Cost: \$1,093,250. To establish an ITFS system that will interconnect the four campuses of Brevard Community College, Cocoa, FL, and studio equipment to permit the origination of programming.

File No. 92198 CTN University of Central Florida, 4000 Central Florida Boulevard, Orlando, FL 32816-. Signed By: Mr. Rusty Okoniewski, Dir. Div of Sponsored Research. Funds Requested: \$75,919. Total Project Cost: \$101,226. To extend the ITFS system of the University of Central Florida, Orlando, to its branch campuses in Brevard, Volusia, Lake and Sumter Counties.

File No. 92228 CRB Florida State University, 2561 Pottsdamer Street, Tallahassee, FL 32310-. Signed By: Mr. Robert Johnson, Vice President for Research. Funds Requested: \$24,027. Total Project Cost: \$32,036. To extend the service of public radio station WFSU-FM, 88.9 MHz, Tallahassee, FL, by construction of a 250 watt FM translator in Marianna, FL, to serve Marianna and surrounding Jackson County, FL. Approximately 15,000 persons would receive first public radio service. WFSU-FM currently serves approximately 449,411 listeners in the Tallahassee area.

File No. 92229 CRB Florida State University, 2561 Pottsdamer Street, Tallahassee, FL 32310-. Signed By: Mr. Robert Johnson, Vice President for Research. Funds Requested: \$24,066. Total Project Cost: \$32,088. To extend the service of public radio station WFSU-FM, 88.9 MHz, Tallahassee, FL,

by constructing a 250 watt FM translator near Apalachicola, FL, to provide first public radio service to Apalachicola and surrounding Franklin County, FL. Approximately 5,000 persons would receive first public radio service. WFSU-FM currently serves approximately 449,411 listeners in the Tallahassee area.

File No. 92232 CTB Florida State University, 2565 Pottsdamer Street, Tallahassee, FL 32310-. Signed By: Mr. Robert M. Johnson, Vice President for Research. Funds Requested: \$70,000. Total Project Cost: \$140,000. To improve the service of public television station WFSU-TV, Ch. 11, Tallahassee, FL, and its satellite station WFSG-TV, Ch. 56, Panama City, FL, by replacing 3 worn-out and obsolete 1" videotape recorders and 1 1/4" videotape recorder with 4 1/2" Beta-format VCRs. WFSU-TV and WFSG-TV serve approximately 596,000 viewers in the Tallahassee and Panama City areas.

File No. 92286 CAB Florida Institute of Technology, 150 W. University Blvd., Melbourne, FL 32901-6988. Signed By: Mr. Robert A. Merrill, Director of Sponsored. Funds Requested: \$14,272. Total Project Cost: \$28,544. To improve the services of public radio station WFIT-FM, 89.5 MHz, Melbourne, FL, by installing a satellite downlink system.

File No. 92303 CRB University of South Florida, 4202 Fowler Avenue, Tampa, FL 33620-4890. Signed By: Ms. Priscilla Pope, Assoc. Dir. Div. of Spon. Res. Funds Requested: \$29,750. Total Project Cost: \$59,500. To extend the service of the Radio Reading Service of public radio station WUSF-FM, 89.7 MHz, Tampa, FL, and its sister station, WSFP-FM, 90.1 MHz, Ft. Myers, FL, by purchasing and distributing 700 sub-carrier receivers. WUSF-FM currently serves approximately 4500 vision-impaired listeners.

GA (Georgia)

File No. 92090 CRTB Georgia Public T/C Commission, 1540 Stewart Avenue, SW, Atlanta, GA 30310-. Signed By: Mr. Richard Ottinger, Executive Director. Funds Requested: \$217,000. Total Project Cost: \$434,000. To improve the service of the Georgia Public Telecommunications Commission's 9-station television and 9-station radio network by replacing an antiquated leased microwave interconnection system. This system will be part of a satellite-based programming delivery system. The Georgia television network reaches 96 per cent of the state's population (approximately 6.2 million persons), while the radio network reaches 61 per cent of the population (approximately 4 million

persons). The present microwave interconnection was built in 1965.

GU (Guam)

File No. 92025 CRB Guam Educational Radio Foundation, UOG Station, Mangilao, GU 96923-. Signed By: Ms. Joanne Barta, Executive Director. Funds Requested: \$315,077. Total Project Cost: \$685,843. To establish the first public radio service in the island of Guam. The station would provide National Public Radio programming via a fiber optic cable interconnect from Hawaii. The station would operate on 89.3 MHz and provide public radio service to 133,000 people on the island.

File No. 92319 CTB Guam Educational T/C Corp., P.O. Box 21449, GMF, GU 96921-. Signed By: Mr. Joseph Tighe, General Manager. Funds Requested: \$175,987. Total Project Cost: \$231,983. To extend the service of public television station KGTF-TV, operating on Ch. 12 in Guam, to the Commonwealth of the Northern Mariana Islands. The project would construct a microwave interconnection from Guam to Rota, which would be served by a 10 watt translator operating on Ch. 16, and from Rota via microwave to Saipan, which would be served by a 100 watt translator operating on Ch. 14. The translators would provide first public television service to 43,555 residents of the islands of Rota, Tinian and Saipan.

HI (Hawaii)

File No. 92195 CRB Big Island Public Radio, 1416 Kilikina St., Hilo, HI 96720-. Signed By: Mr. Rankin A. Curtis, Jr., President. Funds Requested: \$218,676. Total Project Cost: \$291,569. To construct the first public radio station to serve Hilo, HI. The station will operate on 88.7 Mhz as a class C2 facility and will serve 58,700 people living in the North Hilo, South Hilo and Puna districts of the Island of Hawaii.

IA (Iowa)

File No. 92161 CRB Iowa Central Community College, 330 Avenue M, Fort Dodge, IA 50501-. Signed By: Mr. Jack L. Bottenfield, President. Funds Requested: \$27,147. Total Project Cost: \$54,294. To improve the operational reliability of public radio station KTPR, 91.1 MHz, Fort Dodge, IA, by replacing worn-out and unreliable control room and production equipment, including consoles, CD players, and DAT cassette machines.

File No. 92204 CTN Indian Hills Community College, 525 Grandview, Ottumwa, IA 52501-. Signed By: Dr. Lyle Hellyer, President. Funds Requested: \$123,885. Total Project Cost: \$247,771. To equip two production studios in the

Advanced Technology Center on the campus of the Indian Hills Community College, Ottumwa, IA. The studios will permit the school to originate instructional programming to be distributed throughout the school's 10-county service—and eventually the entire state—via the dissemination facilities of the Iowa Communications Network.

File No. 92247 CTB Iowa Public Broadcasting Board, 6450 Corporate Drive, Johnston, IA 50131-. Signed By: Mr. George C. Carpenter, III, Executive Director. Funds Requested: \$145,357. Total Project Cost: \$290,714. To improve the production capability of Iowa Public Television, Johnston, IA, by replacing its worn-out and obsolete production switcher and character generator. Iowa PTV operates public television stations KDIN, Ch. 11, Des Moines; KBIN, Ch. 32, Council Bluffs; KHIN, Ch. 36, Red Oak; KIIN, Ch. 12, Iowa City; KRIN, Ch. 32, Waterloo; KSIN, Ch. 27, Sioux City; KYIN, Ch. 24, Mason City; and KTIN, Ch. 12, Fort Dodge.

ID (Idaho)

File No. 92141 PRB Idaho State Board of Education, 1910 University Drive, Boise, ID 83725-. Signed By: Mr. Gerold Garber, GM/Authorized Representative. Funds Requested: \$31,750. Total Project Cost: \$31,750. To plan for noncommercial TV station, KAID-TV, Channel 4 in Boise, ID, to conduct a statewide assessment of the interest in applicant providing public radio services where they do not presently exist, to provide statewide programming services, to assess the willingness of the public to financially support such expansion of services, and to review and update engineering data to provide such service.

IL (Illinois)

File No. 92102 CRB Prairie Air, Inc., 113 N. Market, Champaign, IL 61820-. Signed By: Mr. Charles Segard, Chair, WEFT Bd. of Directors. Funds Requested: \$16,378. Total Project Cost: \$21,838. To improve the facilities of public radio station WEFT (FM), 90.1 MHz, Champaign, IL, by replacing worn-out and unreliable production equipment, including control console, turntables, CD players, cart machines, cassette machines, and microphones.

File No. 92123 CRB Sangamon State University, South Shepherd Road, Springfield, IL 62794-9243. Signed By: Mr. Wayne Penn, Vice Pres. Academic Affairs. Funds Requested: \$189,250. Total Project Cost: \$252,334. To activate a 42KW public radio station operating on 89.3 MHz in Pittsfield, IL, to provide public radio service to 98,404 persons,

77,340 of whom will receive their first public radio service. The station will repeat the signal of public radio station WSSU, 91.9 MHz, Springfield, IL.

File No. 92188 CRB Southern Illinois University, 1048 Communications Building, Carbondale, IL 62901-. Signed By: Mr. Benjamin A. Shepherd, VP Academic Affairs & Provost. Funds Requested: \$33,902. Total Project Cost: \$67,804. To improve the news program production capability of public radio station WSIU-FM, 91.9 MHz, Carbondale, IL, by replacing worn-out, obsolete and sub-standard production equipment, including a mixing console, stereo cartridge machines, audio cassette machines, and microphones.

File No. 92189 CTB Southern Illinois University, 1048 Communications Building, Carbondale, IL 62901-. Signed By: Mr. Benjamin Shepherd, VP, Academic Affairs & Provost. Funds Requested: \$155,459. Total Project Cost: \$310,918. To improve the production capability of public television station WSIU-TV, Ch. 8, Carbondale, IL, by replacing worn-out and obsolete video tape recorders.

File No. 92214 CTB Southern Illinois University, 1048 Communications Building, Carbondale, IL 62901-. Signed By: Mr. Benjamin A. Shepherd, VP Academic Affairs & Provost. Funds Requested: \$111,020. Total Project Cost: \$222,040. To improve the production capability of public television station WUSI-TV, Ch. 16, Olney, IL, by replacing obsolete and worn-out equipment, including studio and field cameras and a character generator.

File No. 92219 CRB Northwestern University, 633 Clark Street, Evanston, IL 60208-. Signed By: Mr. William J. Gealy, Dir. Research & Sponsored Pgms. Funds Requested: \$62,148. Total Project Cost: \$124,297. To improve public radio station WNUR, 89.3 MHz, Evanston, IL, by replacing worn-out production equipment, including audio consoles, tape recorders, cart machines, microphones, CD players, routing switcher, loudspeakers, and test equipment.

File No. 92223 CRB University of Illinois, 1110 W. Main Street, Urbana, IL 61801-. Signed By: Mr. Craig S. Bazzani, Comptroller. Funds Requested: \$31,150. Total Project Cost: \$62,300. To improve the signal of public radio station WILL-FM, 90.9 MHz, Urbana, IL, by replacing its unreliable 23-year-old antenna.

File No. 92225 CTN Downers Grove Grade School Dist 58, 1860 63rd Street, Downers Grove, IL 60516-. Signed By: Mr. Roger H. Garvelink, Superintendent. Funds Requested: \$168,675. Total Project Cost: \$219,900. To purchase fiber optic

and studio equipment that will allow Downers Grove Grade School, Downers Grove, IL, to interconnect with five elementary schools across the country, several universities, and two private corporations via a networked computer/communications system.

File No. 92234 PTN North Central Regional Educ. Lab., 1900 Spring Road, Suite 300, Oak Brook, IL 60148-. Signed By: Mr. Jeri Nowakowski, Executive Director. Funds Requested: \$289,000. Total Project Cost: \$289,000. To compose a comprehensive national plan for the distribution of distance learning materials. The project will be organized by three entities: the North Central Regional Educational Laboratory, Oak Brook, IL; the Far West Laboratory for Educational Research and Development, San Francisco; and the South Eastern Regional Vision for Education, Greensboro, NC.

File No. 92237 CTB Chicago Educational TV Association, 5400 North St. Louis Avenue, Chicago, IL 60625-. Signed By: Mr. John C. Rahmann, Executive Vice President. Funds Requested: \$222,000. Total Project Cost: \$444,000. To improve the production capability of public television station WTTW, Ch. 11, Chicago, IL, by replacing obsolete, worn-out and unreliable equipment, including video tape recorders, an editing system, an electronic graphics system, and audio test equipment.

File No. 92283 CRB Quincy College Corporation, 1800 College Avenue, Quincy, IL 62301-2699. Signed By: Fr. James F. Toal, OFM, President. Funds Requested: \$129,657. Total Project Cost: \$172,876. To improve and extend the broadcast signal of public radio station WWQC, 90.3 MHz, Quincy, IL, by replacing its obsolete and worn-out transmitter and antenna system and increasing its power from 110 watts to 10 KW. The power increase will provide public radio service to 55,000 persons in Illinois and Missouri who do not now have it.

IN (Indiana)

File No. 92039 CRB Southwest Indiana Pub. Broad. Inc., 405 Carpenter Street, Evansville, IN 47708-1027. Signed By: Mr. David L. Dial, President & General Manager. Funds Requested: \$44,602. Total Project Cost: \$89,205. To improve the broadcast signal and production capability of public radio station WNIN-FM, 88.3 MHz, Evansville, IN, by replacing worn-out and obsolete equipment, including an STL, master and production control consoles, cartridge Machines, audio tape recorders, and microphones.

File No. 92107 CTB Indiana University, Indiana University, Bryan 104, Bloomington, IN 47405-6901. Signed By: Mr. George Walker, Vice President for Research. Funds Requested: \$375,000. Total Project Cost: \$750,000. To improve the signal and coverage area of public television station WTIU, Ch. 30, Bloomington, IN, by replacing its 23-year-old transmitter and associated equipment, refurbishing its transmission line, and increasing its power from 15KW to 60KW, bringing service to an additional 78,500 persons, 14,700 of whom do not presently receive a grade B public TV signal.

File No. 92241 CTN Indiana University, Bryan Hall 1, Bloomington, IN 47402-. Signed By: Mr. George Walker, Assoc. Vice Pres. Research. Funds Requested: \$313,800. Total Project Cost: \$1,397,900. To convert the applicant's four-channel, statewide, fiber-optic interconnection system to an eight-channel, compressed-video satellite interconnection system by constructing a Ku-band satellite uplink in Indianapolis. The project will also retrofit an existing Ku-band receive-only terminal into an uplink terminal at public television station WFYI-TV, Indianapolis, as well as add a second Ku-band receive-only terminal at WFYI-TV. The WFYI uplink would permit the eight Indiana public television stations to directly provide programs to schools participating in the IHETS service.

File No. 92243 CRB Bloomington Community Radio, Inc., 128 N. Walnut Street, Bloomington, IN 47408-. Signed By: Mr. Brian Kearney, President. Funds Requested: \$89,995. Total Project Cost: \$179,995. To activate a new public radio station at 91.3 MHz in Bloomington, IN.

File No. 92248 CTB Metro. Indianapolis Pub. Brd., Inc., 1401 North Meridian Street, Indianapolis, IN 46202-2389. Signed By: Mr. Lloyd Wright, President & General Manager. Funds Requested: \$205,000. Total Project Cost: \$410,000. To improve the production capability of public television station WFYI-TV, Ch. 20, Indianapolis, IN, by replacing obsolete and worn-out video tape recorders, an editing system, and ENG equipment.

File No. 92309 CRB Purdue University, West Lafayette, IN 47907-. Signed By: Mr. Larry E. Pherson, Contract Administrator. Funds Requested: \$31,612. Total Project Cost: \$42,150. To improve the production capability of public radio station WBAA, 920 KHz, West Lafayette, IN, by replacing items of worn-out and unreliable equipment, including audio control consoles, microphones, audio tape recorders, CD players, and a signal processor.

KS (Kansas)

File No. 92024 CTB Washburn University, 1700 College Avenue, Topeka, KS 66621-. Signed By: Mr. Hugh L. Thompson, President. Funds Requested: \$33,566. Total Project Cost: \$51,640. To improve the facilities of public television station KTWU-TV, Channel 11, in Topeka by replacing major components of the station's editing system including three 3/4" editing machines, and an edit controller as well as other related equipment. Station serves an estimated 109,000 households in the Topeka market.

File No. 92177 CTB Smoky Hills Public Television Corp, 6th & Elm Streets, Bunker Hill, KS 67626-. Signed By: Mr. Nick Slechta, CEO & General Manager. Funds Requested: \$251,000. Total Project Cost: \$386,300. To improve the facilities of public television station, KODD-TV, Channel 9, in Bunker Hill by replacing three obsolete studio cameras and associated accessories, two video tape recorders and a switcher with state of the art equipment. Station provides the only public television service to approximately 339,550 residents within its service area.

KY (Kentucky)

File No. 92048 CTB Owensboro Community College, 4800 New Hartford Road, Owensboro, KY 42303-. Signed By: Dr. John M. McGuire, President. Funds Requested: \$52,023. Total Project Cost: \$69,365. To construct a 220' tower at Owensboro Community College, Owensboro, KY, to allow the College to continue its low-power television service on Ch. 12. The station's current tower is to be taken down due to age. The College's station broadcasts diverse instructional programming to the population of the greater Owensboro area.

File No. 92074 CRB Louisville Free Public Library, 301 York Street, Louisville, KY 40203-2257. Signed By: Mr. Jerry E. Abramson, Mayor, city of Louisville. Funds Requested: \$61,300. Total Project Cost: \$122,600. To improve the signals of public radio stations WFPK, 91.9 MHz, and WFPL, 89.3 MHz, Louisville, by replacing their obsolete and worn-out transmitters.

File No. 92242 CTB Kentucky Authority for Educ. TV, 600 Cooper Drive, Lexington, KY 40502-. Signed By: Ms. Virginia G. Fox, Executive Director. Funds Requested: \$154,727. Total Project Cost: \$309,455. To improve the signal of Kentucky Educational Television, operating fifteen stations and eight translators statewide plus two closed-circuit satellite channels, by replacing

worn-out, obsolete, and unreliable equipment, including the Channel 56 translator serving Falmouth, KY, microwave transmitters and receivers, and audio processing and test equipment.

File No. 92244 CTB Fifteen Telecommunications, Inc., 4309 Bishop Lane, Louisville, KY 40218-. Signed By: Mr. John-Robert Curtin, President/CEO. Funds Requested: \$767,215. Total Project Cost: \$1,534,430. To improve the signal of public television station WKPC, Ch. 15, Louisville, KY, by replacing its worn-out and obsolete 20-year-old transmitter and antenna, and to improve the station's production capability by replacing certain items of studio equipment, including a switcher, monitors, and distribution amplifiers.

File No. 92311 CRB Univ of Louisville Research Fdn., 2301 South Third Street, Louisville, KY 40292-. Signed By: Ms. Anna Mae Tobbe, Manager, Grants & Contracts. Funds Requested: \$75,000. Total Project Cost: \$150,000. To improve the broadcast signal and production capability of public radio station WUOL, 90.5 MHz, Louisville, KY, by replacing its worn-out, obsolete, and unreliable transmitter, antenna, an audio console, and audio tape recorders.

File No. 92314 CTN Fleming County Board of Education, 211 W. Walter Street, Flemingsburg, KY 41041-. Signed By: Mr. David Barnett, Superintendent. Funds Requested: \$19,996. Total Project Cost: \$39,996. To purchase equipment to allow the production of instructional programming to be transmitted via the community access channel of the Fleming County, KY, cable television system.

LA (Louisiana)

File No. 92240 CTB Educational Broadcasting Fdn, Inc., 2929 South Carrollton Avenue, New Orleans, LA 70118-. Signed By: Mr. Doug Curry, General Manager. Funds Requested: \$17,793. Total Project Cost: \$38,586. To improve and expand the services of public television station WLAE-TV, Ch. 32, New Orleans, LA, by adding capabilities for providing descriptive video and second language (Spanish) programming to serve the more than 10,000 visually impaired residents of the New Orleans metropolitan area and the 3.5 percent of the population which is Spanish-speaking. WLAE-TV is a subsidiary of the Archdiocese of New Orleans and is the only public television station in the city which provides a full schedule of educational programming to the schools.

File No. 92256 CTB Louisiana Educ. TV Authority, 7860 Anselmo Lane, Baton Rouge, LA 70810-. Signed By: Ms.

Beth Courtney, Executive Director. Funds Requested: \$195,500. Total Project Cost: \$391,000. To improve the services of the Louisiana Public Broadcasting Network by replacing obsolete video switching and audio production systems. The equipment will be housed at the LPB Telecommunications Center in Baton Rouge, LA, and will be used to produce programming for the six stations of the Louisiana Public Television Network. The Network currently serves more than 485,000 households through its transmitters and 154 cable systems in Louisiana and neighboring states.

File No. 92285 CTB Grtr. New Orleans Educ. TV. Found., 916 Navarre Avenue, New Orleans, LA 70124-. Signed By: Mr. Randall Feldman, President & General Manager. Funds Requested: \$62,502. Total Project Cost: \$125,005. To improve the service of public television station WYES-TV, Ch. 12, New Orleans, LA, by replacing an obsolete and malfunctioning television production switcher. WYES-TV serves more than 1.8 million viewers in the New Orleans metropolitan area and southwestern Mississippi over-the-air and through more than 40 cable systems.

File No. 92317 CRB Friends of WWOZ, Inc., 1205 N. Rampart Street, New Orleans, LA 70119-. Signed By: Ms. Yvette Smothers, General Manager. Funds Requested: \$93,079. Total Project Cost: \$124,106. To improve the service of public radio station WWOZ-FM, 90.7 MHz, New Orleans, LA, by replacing a deteriorated transmission line and production equipment, and by adding satellite downlink equipment. Production equipment to be purchased includes an audio console, digital editing system, recorders, microphones, and speakers.

MA (Massachusetts)

File No. 92033 CRB Talking Information Center, Inc., 130 Enterprise Drive, Marshfield, MA 02050-. Signed By: Mr. Ronald Bersani, Executive Director. Funds Requested: \$17,100. Total Project Cost: \$34,200. To equip a production studio at the Audio Journal, Worcester, MA, which is an affiliate of the Talking Information Center (TIC), Marshfield, MA. The TIC provides a radio reading service to the print-handicapped throughout Massachusetts. The proposed studio would produce programming for a statewide pilot program designed to combat illiteracy. The project also includes equipment that would allow TIC to produce tapes for illiterate listeners. Finally, it would purchase 100 SCA receivers.

File No. 92099 PTN Mount Wachusett Community College, 444 Green Street,

Gardner, MA 01440-. Signed By: Mr. Daniel M. Asquino, President. Funds Requested: \$8,079. Total Project Cost: \$8,079. To assist Mount Wachusett Community College develop a plan to establish two-way, interactive broadcast capabilities from the College to ten Massachusetts correctional facilities. The system would transmit telecourses to over 1,000 incarcerated students who are pursuing GED diplomas or associated degrees.

MD (Maryland)

File No. 92075 CTB MD Public Broadcasting Commission, 11767 Owings Mills Boulevard, Owings Mills, MD 21117-1499. Signed By: Mr. Raymond K.K. Ho, President & CEO. Funds Requested: \$488,854. Total Project Cost: \$977,708. To improve and extend the service of public television station WCPB-TV, Ch. 28, Salisbury, MD, by replacing an outdated 30KW transmitter with a 70KW transmitter, which will increase the potential viewership of the station from 294,622 to 343,331, a gain of over 11 percent. WCPB-TV is one of the six television stations of Maryland Public Television and is the only over-the-air service to the lower part of the Eastern Shore of Maryland.

ME (Maine)

File No. 92150 CTB University of Maine System, 65 Texas Avenue, Bangor, ME 04401-. Signed By: Mr. William J. Sullivan, Vice Chancellor/Treasurer. Funds Requested: \$120,984. Total Project Cost: \$201,640. To improve the production and distribution system of the University of Maine System operating a state-wide public television network from Bangor, ME, by replacing worn out and obsolete master control, production and editing equipment and by upgrading the existing network distribution system for stereo capability.

File No. 92160 CRB University of Maine System, 65 Texas Avenue, Bangor, ME 04401-. Signed By: Mr. William J. Sullivan, Vice Chancellor/Treasurer. Funds Requested: \$194,600. Total Project Cost: \$259,505. To extend the signal of Maine Public Broadcasting Network's radio service by constructing a satellite repeater station in Fort Kent, ME, to bring a first public radio service to 20,000 residents of the St. Johns River Valley.

File No. 92230 CRB University of Maine System, 96 Falmouth St., Portland, ME 04103-. Signed By: Mr. William Sullivan, Vice Chancellor. Funds Requested: \$15,320. Total Project Cost: \$30,639. To improve the programming capability of public radio station WMPG-FM operating on 90.9

MHz, Gorham, ME, by installing satellite receive equipment and related recorders to provide national programming to 144,000 residents of Portland.

File No. 92238 CTB Colby-Bates-Bowdoin Educational, 1450 Lisbon Street, Lewiston, ME 04240-. Signed By: Mr. Robert Gardiner, President & General Manager. Funds Requested: \$90,000. Total Project Cost: \$150,000. To upgrade the transmission and production capability of public television station WCBT-TV, operating on channel 10, Augusta, ME, by replacing worn out and obsolete transmitter and master control equipment and adding studio lighting to better serve 880,000 residents of the Lewiston and Augusta area.

File No. 92263 CRB Salt Pond Community Broadcasting, The Henhouse, Blue Hill Falls, ME 04615-. Signed By: Mr. Jeffrey Kobrock, General Manager. Funds Requested: \$37,406. Total Project Cost: \$49,875. To improve the programming capability of public radio station WERU-FM operating at 89.9 MHz, Blue Hill Falls, ME, by installing a satellite receive dish to provide national public radio programming to residents of the central coast of Maine.

MI (Michigan)

File No. 92086 CRB Blue Lake Fine Arts Camp, RR No. 2, Twin Lake, MI 49457-. Signed By: Mr. William F. Stansell, President. Funds Requested: \$25,882. Total Project Cost: \$51,764. To improve the broadcast signal of public radio station WBLV, 90.3 MHz, Twin Lake, MI, by replacing its worn-out and obsolete STL and certain control console components and by adding various items of production equipment for live remote broadcasts, including an effects processor, level controller, and mike booms.

File No. 92213 CTB Northern Michigan University, Elizabeth L. Harden Circle Dr., Marquette, MI 49855-. Signed By: Mr. Michael J. Roy, Interim VP, Finance & Admin. Funds Requested: \$40,000. Total Project Cost: \$80,000. To improve the production capability of public television station WNMU, Ch. 13, Marquette, MI, by replacing outdated and unreliable field recording equipment and editing facilities.

File No. 92265 CRB University of Michigan, 5501 LSA Building, Ann Arbor, MI 48109-1382. Signed By: Mr. Paul J. Stemple, Manager, Ofc of Contract Admin. Funds Requested: \$100,662. Total Project Cost: \$201,324. To improve the operation of public radio station WVGR, 104.1 MHz, Grand Rapids, MI, by replacing a worn-out, unreliable, and obsolete STL system and

associated equipment. WVGR broadcasts the program service of public radio station WUOM, Ann Arbor, MI.

MN (Minnesota)

File No. 92068 CRB Minnesota Public Radio, 45 East 7th Street, St. Paul, MN 55101-. Signed By: Mr. Thomas J. Kigin, Vice President. Funds Requested: \$499,893. Total Project Cost: \$979,241. To build translators in 10 communities to carry Minnesota Public Radio's statewide news & information service and to build a translator in 1 community for MPR's classical music service; to improve the signals of five (5) MPR stations and 1 translator by replacing their aged transmission equipment; to improve the production capability of MPR's regional/national production center and at 7 MPR stations by replacing worn-out, obsolete tape recorders and consoles; to improve the operational reliability of 9 MPR stations by providing or completing a complement of basic test equipment; and to install satellite uplink and downlink equipment for the distribution of MPR programming to its stations around the state.

File No. 92176 PRB Fresh Air, Inc., 1808 Riverside Avenue, Minneapolis, MN 55454-. Signed By: Mr. Glen McCluskey. Funds Requested: \$15,000. Total Project Cost: \$15,000. This is an application for a planning grant to perform an engineering study for public radio station KFAI, 90.3 MHz, Minneapolis, to evaluate a site relocation to reduce or eliminate the shadowing of its antenna it experiences from surrounding buildings in its present location.

File No. 92180 St. Cloud State University, 720 South 4th Avenue, St. Cloud, MN 56301-4498. Signed By: Ms. Barbara A. Grachek, VP for Academic Affairs. Funds Requested: \$207,900. Total Project Cost: \$283,680. To establish a pilot study to link St. Cloud State University to the Minneapolis School District—especially to the high schools—via two-way television and data communications.

File No. 92278 CTN Worthington Community College, 1450 Collegeway, Worthington, MN 56187-. Signed By: Mr. C.W. Burchill, President. Funds Requested: \$184,685. Total Project Cost: \$321,580. To purchase optical fiber and studio equipment for Worthington Community College, Worthington, MN, to allow the school to distribute diverse instructional programming to varied audiences throughout Murray, Nobles, Pipestone, and Rock Counties in southwestern Minnesota. The system will feature two-way video and audio transmission. The coursework

transmitted will lead to an Associate of Arts degree from the school.

MO (Missouri)

File No. 92030 CTB Ozark Public Telecomm, Inc., MPO Box 21, Springfield, MO 65802-. Signed By: Mr. Arthur J. Luebke, President & General Manager. Funds Requested: \$197,069. Total Project Cost: \$394,138. To improve the transmission of public television station KOZK-TV, operating on Ch. 21, Springfield, MO, by replacing its worn-out and obsolete antenna; and to provide first local, live programming capability for KOZJ-TV, operating on Ch. 26, Joplin, MO, by adding an STL between the station and a studio at Missouri Southern State College.

File No. 92231 PTN Nat'l Federation TARGET Prog. Inc., 11724 NW Plaza Circle, Kansas City, MO 64195-0626. Signed By: Mr. Dick Stickle, Executive Director. Funds Requested: \$118,500. Total Project Cost: \$118,500. To assist TARGET, an organization of The National Federation of State High School Associations that deals with alcohol and drug awareness, explore the feasibility of developing a National Training and Seminar Center in Kansas City, MO. The center would use interactive satellite delivery and other technologies such as those at the University of Missouri, Kansas City, and would serve high school associations, the 19,000 member public and private high schools nationwide, athletic directors/coaches, students and parents.

File No. 92273 CRB University of Missouri, 8001 Natural Bridge Road, St. Louis, MO 63121-. Signed By: Dr. Elizabeth Clayton, Assoc. Vice Chancellor for Res. Funds Requested: \$56,600. Total Project Cost: \$113,200. To improve the operational capability of public radio station KWMU, 90.7 MHz, St. Louis, MO, by replacing worn-out, obsolete, and unreliable items of equipment, including an audio console, CD players, audio tape recorders, a routing switcher, a logging recorder, an automation system, and a signal processor.

File No. 92297 PTBN School District of Kansas City, MO, 1211 McGee, Room 805, Kansas City, MO 64106-. Signed By: Dr. Walter L. Marks, Superintendent of Schools. Funds Requested: \$169,593. Total Project Cost: \$169,593. To plan for a telecommunications facility at Westport Communications Magnet High School in Kansas City, MO. Part of the project will center on a proposed noncommercial television station to broadcast diverse distance learning programming throughout greater Kansas City. The project will also develop

various courses to be offered via other means of telecommunications distribution.

File No. 92304 PTN Higher Ed Ctr of Greater St. Louis, 8420 Delmar Blvd., Suite 504, University City, MO 63124-. Signed By: Mr. Samuel E. Wood, President. Funds Requested: \$51,685. Total Project Cost: \$61,270. To plan for the extension of the common higher education channel now carried on the St. Louis County cable television franchises to all cable television carriers throughout greater St. Louis, and to determine whether higher education institutions in the St. Louis area might share a mobile production facility.

MP (Northern Marianas)

File No. 92144 PRB Northern Marianas College, P.O. Box 1250 C.K., Saipan, MP 96950-. Signed By: Ms. Agnes McPhetres, President. Funds Requested: \$14,200. Total Project Cost: \$16,850. To plan for the construction of the first public radio station to serve the Northern Mariana Islands. The proposed station would serve 40,000 residents of the islands of Saipan and Tinian.

MS (Mississippi)

File No. 92053 CTB Mississippi Auth. for Educ. TV, 3825 Ridgewood Road, Jackson, MS 39211-. Signed By: Mr. A.J. Jaeger, Executive Director. Funds Requested: \$1,232,396. Total Project Cost: \$2,464,792. To improve the service of public television stations WMAO-TV, Ch. 23 (Greenwood, MS), and WMAU-TV, Ch. 17 (Bude, MS), by replacing outmoded transmitters, antennas, and other dissemination equipment, and to improve the service of translator W45AA, Ch. 45 (Columbia, MS), by replacing the translator and related equipment. The two existing transmitters are 20 years old; the existing translator is more than 12 years old.

File No. 92060 CRB Jackson State University, 1400 Lynch Street, Jackson, MS 39217-. Signed By: Mr. Herman B. Smith, Jr., Interim President. Funds Requested: \$184,477. Total Project Cost: \$245,970. To improve and extend the service of public radio station WJSU-FM, 88.5 MHz, in Jackson, MS, by replacing basic transmission equipment—including transmitter, antenna, transmission line, and related equipment—to allow for an increase in power from 3,000 to 24,500 watts. Also to replace and upgrade basic production and on-air facilities, including consoles, CD players, DAT players, and reel-to-reel recorders. WJSU-FM serves 283,447 listeners in the Jackson area; this power increase will allow Jackson State University, an historically Black

institution, to provide alternative programming to the 137,000 residents of the Jackson area who are minorities.

File No. 92226 CRB Mississippi State University, P.O. Box 6156/305 Bowen Hall, Mississippi State, MS 39762-. Signed By: Mr. Ralph E. Powe, Vice President for Research. Funds Requested: \$224,715. Total Project Cost: \$299,620. To activate a public radio station, to be located on the campus of Mississippi State University, Starkville, MS, to provide locally originated programming tailored to the needs of a population that is 38 per cent Afro-American. One objective of the station will be to provide local educational institutions with programming that will reinforce and complement classroom instruction, as well as to provide a full range of public service programming.

File No. 92321 CRB Rust College, Inc., 150 East Rust Avenue, Holly Springs, MS 38635-. Signed By: Mr. William McMillan, President. Funds Requested: \$59,951. Total Project Cost: \$79,935. To improve the service of public radio station WURC-FM, 88.1 MHz, Holly Springs, MS, by acquiring a satellite downlink, replacing the STL, and replacing on-air and production studio equipment (including an audio console, CD players, turntables, microphones, DAT recorders, speakers, and open-reel tape decks). WURC-FM serves a predominantly minority audience of 325,000 in northern Mississippi and is owned and operated by Rust College, an historically Black institution fifty miles southeast of Memphis, TN.

MT (Montana)

File No. 92035 CTB Ruby Valley TV District, 368 Bayers Lane, Twin Bridges, MT 59754-. Signed By: Mr. Rand B. Bradley, Superintendent. Funds Requested: \$62,983. Total Project Cost: \$83,977. To establish a non-commercial low-power TV station K31DD, operating on Channel 31 in Twin Bridges, MT, to provide first signal to southwestern Montana.

File No. 92071 CTB Flathead Valley Community College, 777 Grandview Drive, Kalispell, MT 59901-. Signed By: Mr. Howard Fryett, President. Funds Requested: \$263,892. Total Project Cost: \$351,816. To establish a noncommercial low-power TV station, (call letters to be assigned), operating on Ch. 65 in Kalispell, MT, to provide first signal and first local service to the Flathead Valley and parts of Lincoln county.

File No. 92093 CTB Bitterroot Valley Public TV, P.O. Box 588, Hamilton, MT 59840-. Signed By: Mr. Charles McCartney, President. Funds Requested: \$48,795. Total Project Cost: \$65,060. To extend the signal of noncommercial TV

station, BVTB, Channel 21/67 in Hamilton, MT, by constructing a translator system at Florence that will bring the residents of the northern portion of Ravalli County its first public TV signal, and provide the area with its own local origination.

File No. 92111 CTB University of Montana, PA/RTV Building, Room 180, Missoula, MT 59812-. Signed By: Mr. Raymond C. Murray, Associate Provost for Research. Funds Requested: \$1,725,000. Total Project Cost: \$2,300,000. To establish a satellite repeater noncommercial TV station, KUFG, operating on Channel 11 in Missoula, MT, with a 2-way interconnection with the mother station, KUSM-TV in Bozeman, to provide the first signal to 122,201 residents in 8 counties in western Montana.

File No. 92169 CTB Noxon Public School District 10, 25 Railroad Road, Noxon, MT 59853-. Signed By: Mr. John A. Baule, Superintendent. Funds Requested: \$65,028. Total Project Cost: \$86,705. To establish a noncommercial low-power TV station (no call letters yet assigned), operating on Channel 32 in Noxon, MT, by providing first signal plus local and PBS service to the Noxon, Trout Creek, and Heron coverage areas.

File No. 92191 CTN Dawson Community College, P.O. Box 421/300 College Drive, Glendive, MT 59330-. Signed By: Mr. Donald H. Kettner, President. Funds Requested: \$58,649. Total Project Cost: \$78,199. To purchase studio equipment for Dawson Community College, Glendive, MT, that will allow the College to originate instructional and training programming to be distributed via fiber optic lines to diverse institution in eastern Montana; e.g., high schools, medical institutions (for inservice education), and learning centers for the College itself.

File No. 92203 CTB Salish Kootenai College, Box 117, Highway 93, Pablo, MT 59855-. Signed By: Mr. Gerald Slater, Academic Vice President. Funds Requested: \$21,130. Total Project Cost: \$28,174. To extend the signal of public low-power television station, K25CL, operating on Channel 25 in Pablo, MT, with a translator bringing first signal to the communities of Arlee, Evaro, and Dixon on the Flathead Indian Reservation.

File No. 92310 CTB Joliet Public School, District #7, P.O. Drawer G, Joliet, MT 59041-. Signed By: Mr. Larry Blades, Superintendent of Schools. Funds Requested: \$73,789. Total Project Cost: \$98,385. To extend the signal of the existing PBS Mini-Station system in Bridger, MT, to provide first PBS service to the towns of Joliet, Roberts, Red

Lodge and parts of Carbon County in the Rock Creek Valley and access to satellite programming for distance learning, by establishing a noncommercial low-power TV station, K34DO, operating on Channel 34 in Joliet, MT. Applicant states they will produce their own local programming.

NC (North Carolina)

File No. 92114 CRB North Carolina Central University, 1801 Fayetteville Street, Durham, NC 27707-. Signed By: Mr. Mickey Burnim, Provost. Funds Requested: \$193,525. Total Project Cost: \$258,034. To support the activation of a new station broadcasting at 90.7 MHz, to serve the primarily minority population of Durham County, NC. NTIA funds will be used to construct a broadcast tower to provide 900 square miles of coverage to a four-county area and to acquire satellite downlink facilities.

File No. 92118 CTB Univ. of NC, Center for Pub. TV, 10 T.W. Alexander Drive, Research Triangle Park, NC 27709-4900. Signed By: Mr. John W. Dunlop, Director. Funds Requested: \$662,000. Total Project Cost: \$1,324,000. To improve and extend the signal of public television station WUNL-TV, Ch. 26, Winston-Salem, NC, by replacing an obsolete 30KW General Electric transmitter with a modern 140KW transmitter. This replacement will increase the coverage area of WUNL-TV by 4,902 square miles, and increase the potential viewership by over 350,000. WUNL-TV serves a 17-county area of north-central and central North Carolina, as well as south-central Virginia.

File No. 92134 CRB Shaw University, 118 East South Street, Raleigh, NC 27611-. Signed By: Mr. Talbert O. Shaw, President. Funds Requested: \$246,273. Total Project Cost: \$328,264. To expand and improve the service of public radio station WSHA-FM, 88.9 MHz, Raleigh, NC, by constructing a new tower (thereby reducing interference problems with other telecommunications facilities in the area), replacing worn-out and malfunctioning on-air and test equipment (including cassette decks, CD players, microphones, speakers, and related equipment), and acquiring satellite downlink facilities.

File No. 92251 CTN N.C. Agency for Public T/C., 116 West Jones Street S-G102, Raleigh, NC 27603-8003. Signed By: Ms. Lee Wing, Executive Director. Funds Requested: \$300,975. Total Project Cost: \$601,950. To retrofit the applicant's existing Ku-band satellite uplink facility to permit the transmission of a second analog video signal. The project would also purchase 100 receive-only earth

terminals to be placed at libraries throughout North Carolina. The project will enable the transmission of 45 hours per week of coverage of the State government and additional interactive educational, training, informational and citizen participation programs.

File No. 92291 CRB Elizabeth City State University, 1704 Weeksville Rd Campus Bx 800, Elizabeth City, NC 27909-. Signed By: Mr. Jimmy Jenkins, Chancellor. Funds Requested: \$51,280. Total Project Cost: \$68,374. To improve the service of public radio station WRVS-FM, 89.9 MHz, Elizabeth City, NC, by acquiring satellite downlink facilities and making improvements to the transmitter.

ND (North Dakota)

File No. 92003 CTB Prairie Public Broadcasting, Inc., P.O. Box 3240, Fargo, ND 58108-3240. Signed By: Mr. Dennis Falk, President. Funds Requested: \$63,300. Total Project Cost: \$84,400. To improve the facilities of the state public television network by replacing an obsolete, unreliable still store unit which is used for on-air programming, video editing and live productions. The public television network serves 961,367 residents of ND and adjacent areas of MT and MN.

File No. 92004 CRB Prairie Public Broadcasting, Inc., 207 No. 5th St., Box 3240, Fargo, ND 58108-3240. Signed By: Mr. Dennis Falk, President. Funds Requested: \$150,393. Total Project Cost: \$200,525. To activate a new public radio station on 91.5 MHz in Jamestown. Station will be a satellite repeater station of the state radio network. Proposed station will provide a first public radio signal for an estimated 23,229 residents in the unserved area of south central North Dakota.

File No. 92005 CRB Dakota Radio Info. Service, Inc., 604 E. Boulevard, Bismark, ND 58505-. Signed By: Ms. Sally Oremland, Executive Director. Funds Requested: \$10,635. Total Project Cost: \$14,180. To improve and extend the radio reading service by acquiring additional dissemination equipment, seventy-five (75) SCA radio receivers, and an SCA monitor. The existing radio reading service proposes to expand into the Jamestown, ND, market. (The ND public radio network has proposed locating a new repeater, satellite station in Jamestown, ND. PTFP Application 92004.)

File No. 92089 PRB Standing Rock Sioux Tribe, P.O. Box D, Fort Yates, ND 58538-. Signed By: Mr. Charles W. Murphy, Chairman. Funds Requested: \$108,858. Total Project Cost: \$108,858. To plan for the activation of a new public radio station in the Fort Yates area to

serve the needs of the Native American population in Sioux County, ND, and Corson County, SD. Station's signal would be in addition to the signals of KCND-FM, Bismarck, ND, and KQSD-FM, Lowrey, SD. Both existing stations are part of their respective state public radio networks.

File No. 92301 CTN Standing Rock College, HC 1 Box 4, Fort Yates, ND 58538-. Signed By: Mr. Ron McNeil, President. Funds Requested: \$159,566. Total Project Cost: \$212,754. To purchase studio and compressed video interconnection equipment to allow Standing Rock College—which serves the Standing Rock Lakota Sioux Reservation located in north central South Dakota and south central North Dakota—to link its facilities to the North Dakota University fiber optics system, and thereby to receive instructional programming at the baccalaureate and graduate levels. The system will also connect to a site in the southern part of the Reservation.

NE (Nebraska)

File No. 92040 CTB University of Nebraska at Omaha, 60th and Dodge Streets, Omaha, NE 68182-. Signed By: Dr. Delbert Weber, Chancellor. Funds Requested: \$30,000. Total Project Cost: \$60,000. To improve the only locally-based public television production facilities located in Omaha, NE. The project would replace worn, obsolete equipment by acquiring two ½" video recorders and three ½" video players. Programming is carried on KYNE-TV, Channel 26, in Omaha.

File No. 92158 CTN Agricultural Satellite Corporation, 1800 North 33rd Street, Lincoln, NE 68506-. Signed By: Mr. Irvin Omtvedt, Chairman. Funds Requested: \$750,250. Total Project Cost: \$1,500,500. To continue the construction of the Agricultural Satellite Corporation network operating from Lincoln, NE, which provides agricultural courses to universities and agricultural extension programs nationally by installing a new affiliate uplink and installing 104 additional downlinks in 15 states to expand the service delivery capability of the network.

NH (New Hampshire)

File No. 92023 CTB New Hampshire Public Television, Mast Rd, Rte 155A, P.O. Box 1100, Durham, NH 03824-. Signed By: Ms. Kathryn Cataneo, Dir./Research Administration. Funds Requested: \$112,000. Total Project Cost: \$224,000. To improve the transmission and production capability of New Hampshire Public Television in Durham, NH, which distributes public television

programming state-wide by replacing worn out and obsolete video tape recorders, monitors, distribution systems, test equipment and a portable microwave unit to better serve 1 million residents of New Hampshire.

File No. 92084 CTN Goffstown School District, 11 School Street, Goffstown, NH 03045-. Signed By: Mr. Charles A. Gaides, Assistant Superintendent. Funds Requested: \$174,632. Total Project Cost: \$232,843. To purchase a receive-only satellite system, studio production equipment, and interconnection equipment for Goffstown School District, Goffstown, NH. The project will allow the District to produce programming to be transmitted over the area's cable television system. The District will also retransmit instructional programming received from distant sources via the satellite earth station.

NJ (New Jersey)

File No. 92010 CRB Glassboro State College WGLS-FM, Route 322, Glassboro, NJ 08028-. Signed By: Dr. Herman James, President. Funds Requested: \$20,000. Total Project Cost: \$40,000. To improve public radio station WGLS-FM, operating on 89.7 MHz in Glassboro, NJ, by replacing and upgrading studio equipment and adding a Satellite Downlink.

File No. 92125 CTB New Jersey Public Broad. Auth., 1573 Parkside Avenue, Trenton, NJ 08625-0777. Signed By: Mr. Harvey Fisher, Executive Director. Funds Requested: \$437,368. Total Project Cost: \$874,737. To improve public television station WNJB-TV, operating on Channel 58 in New Brunswick, NJ, by replacing the obsolete transmitter needed to deliver programming to north central NJ.

File No. 92127 CRB Newark Public Radio, Inc., 54 Park Place, Newark, NJ 07102-. Signed By: Ms. Anna Kosof, General Manager. Funds Requested: \$56,925. Total Project Cost: \$113,850. To improve public radio station WBCO-FM, operating on 88.3 MHz in Newark, NJ, by replacing obsolete production apparatus and upgrading same needed to deliver programming to residents of northeastern NJ.

NM (New Mexico)

File No. 92163 CTB Eastern New Mexico University, 15th and Avenue O, Portales, NM 88130-. Signed By: Mr. Duane W. Ryan, Director of Broadcasting. Funds Requested: \$144,144. Total Project Cost: \$255,639. To extend the signal coverage of public television station KENW-TV, Channel 3, in Portales by installing a one kilowatt translator in Clovis. Translator will operate on Channel 51 and will provide

first acceptable signal to approximately 35,000 residents who currently receive a weak signal due to the seventy-mile distance from the KENW-TV transmitter. In addition, KENW-TV seeks to replace its $\frac{3}{4}$ " U-Matic VCRs used for tape delays. It also seeks to replace its two $\frac{3}{4}$ " editing systems with 1" Beta format systems.

File No. 92196 CRB Eastern New Mexico University, 15th and Avenue O, Portales, NM 88130-. Signed By: Mr. Duane Ryan, Director of Broadcasting. Funds Requested: \$112,790. Total Project Cost: \$170,587. To extend the signal coverage of public radio station KENW-FM, 89.5 MHz, in Portales by activating four new FM translators in Raton (101.9 MHz), Montoya (90.7 MHz), San Augustin (102.7 MHz) and Wagon Mound (92.1 MHz) and a 100-watt Rocky Mountain Alternative (RMA) public radio station in Raton, NM. The translators and the RMA will provide first signal coverage to approximately 40,000 unserved persons. In addition, KENW-FM seeks to upgrade its control room equipment by acquiring four DAT recorders, twelve distribution amps and 2 record/play cart machines to replace worn, obsolete equipment.

File No. 92207 CTB New Mexico State University, Jordan St. Milton Hall 100, Las Cruces, NM 88003-. Signed By: Ms. Mary Husemoller, Dir. Ofc. of Grants & Contracts. Funds Requested: \$18,000. Total Project Cost: \$30,000. To extend the signal coverage of public television station KRWG-TV, Channel 22, in Las Cruces by installing a 100-watt translator station on Twin Peaks Mountain. New translator, Channel 69, will provide coverage to the unserved communities along the west side of the Mesilla Valley which are located within the shadow area of the main KRWG-TV transmitter. There will be partial overlap with the existing coverage of KRWG-TV as well as KCOS-TV, El Paso, TX.

NV (Nevada)

File No. 92056 CRB Nevada Public Radio Corporation, 5151 Boulder Highway, Las Vegas, NV 89122-. Signed By: Mr. Lamar Marchese, President & General Manager. Funds Requested: \$101,980. Total Project Cost: \$135,974. To establish the first Radio Reading Service (SCA) for the print handicapped through utilization of the subcarrier signal of primary station KNPR-FM in Las Vegas, NV, associate stations KTPH, Tonopah, KLNK, Panaca and 11 rural translators.

File No. 92076 CTB Channel 5 Public Broadcasting, Inc., Evans Avenue, Reno, NV 89557-. Signed By: Mr. James Pagliarini, CEO/General Manager. Funds Requested: \$453,772. Total Project

Cost: \$605,030. To improve the production facilities of KNPB-TV, operating on Channel 5 in Reno, NV, by replacing worn and obsolete apparatus to deliver programming to residents in northern NV.

File No. 92130 CTB Clark County School District, 4210 Channel 10 Drive, Las Vegas, NV 89119-. Signed By: Mr. John Hill, Director, Television Services. Funds Requested: \$566,298. Total Project Cost: \$755,064. To improve the production facilities and programming capabilities of KLVX-TV, Channel 10 in Las Vegas, NV, by replacing, upgrading and augmenting needed apparatus to deliver programming to residents in southern NV. Also, applicant proposes to establish first nonbroadcast service of interactive programs and ITV for public and post secondary residents of the State via a satellite uplink system.

File No. 92181 PTB Rural Television System, Inc., 6205A Franktown Road, Carson City, NV 89704-. Signed By: Mr. Dan Tone, Administrator. Funds Requested: \$76,600. Total Project Cost: \$76,600. This planning application requests a continuation of applicant's 1991 Planning Grant, to plan for the establishment of 5 additional low power Rural Television System (RTS) stations (applicant doesn't know where) that would provide a first service public TV signal to small unserved rural areas in western states.

File No. 92272 CTB Rural Television System, Inc., 6205A Franktown Road, Carson City, NV 89704-. Signed By: Mr. Dan Tone, Administrator. Funds Requested: \$357,804. Total Project Cost: \$366,365. To upgrade the RTS Automation System to current technology, including equipment to switch from the C Band feed to the KU Band in order to better serve applicant's rural Mini-Station affiliates in the states of Arizona, California, Montana, New Mexico, and Nevada.

NY (New York)

File No. 92077 CTB Educational Broadcasting Corp., 356 West 58th Street, New York, NY 10019-. Signed By: Mr. H. Melvin Ming, Chief Administrative Officer. Funds Requested: \$167,550. Total Project Cost: \$335,100. To improve the facilities of public television station WNET-TV, Channel 13, Newark, NJ, by replacing its existing C-band satellite uplink with a Ku-band satellite uplink. This will allow WNET-TV to send programming to the PBS satellite system which proposes to begin using Ku-band in 1993.

File No. 92085 CTN Pelham Union Free Sch. Dist./BEPT, 17 Franklin Place, Pelham, NY 10803-. Signed By: Dr.

Dudley Hare, Jr., Superintendent of Schools. Funds Requested: \$667,659. Total Project Cost: \$890,212. To purchase equipment to interconnect four public school systems in Westchester County, NY, for the transmission of instructional programming. The systems in question are Bronxville, Eastchester, Pelham, and Tuckahoe. The interconnect will be by fiber optics. The project would also purchase studio production equipment for each system and a receive-only satellite earth station.

File No. 92173 CRB Nassau Community College, One Education Drive, Garden City, NY 11530-6793. Signed By: Mr. Sean A. Fanelli, President. Funds Requested: \$50,960. Total Project Cost: \$101,921. To establish a new radio reading service using WHPC-FM, 90.3 MHz, in Garden City. Project will replace an unreliable transmitter and acquire studio production equipment to activate a reading service to be used for educational, and instructional purposes as well as traditional reading services to the print-handicapped. WHPC-FM, which operates on a shared-time basis, has been in operation for about 20 years and uses the frequency during the day. WBAU-FM, licensed to Adelphi University, uses the frequency at night.

File No. 92178 CTB Long Island Educ. TV Council, Inc., 1425 Old Country Road, Plainview, NY 11803-. Signed By: Mr. Terrel L. Cass, President & General Manager. Funds Requested: \$393,798. Total Project Cost: \$656,330. To improve the facilities of public television station WLIW-TV, Channel 21, in Garden City by acquiring a multiple automated recalled cassette system to assist in the restoration and expansion of educational materials to the approximately 900 schools in Long Island educational districts. In addition, WLIW-TV seeks Secondary Audio Programming (SAP) equipment in order to activate the SAP channel and thus provide Spanish language (translations) programming and descriptive video services for the visually handicapped. Approximately 2.4 million residents reside within the station's coverage area.

File No. 92193 CRB Fordham University, Bronx, NY 10458-. Signed By: Ms. Nancy McCarthy, Director of Research. Funds Requested: \$296,137. Total Project Cost: \$992,704. To improve and expand the services of public radio station, WFUV-FM, 90.7 MHz, in New York by acquiring a new 550 ft. tower, antenna and transmission line to replace the existing dissemination system which fails to meet certain environmental standards. According to WFUV-FM, the

new facilities will also provide first signal to about 164,000 people. In addition, WFUV-FM will replace/upgrade origination equipment by acquiring a new audio console, CD players, microphones and a variety of other origination equipment. The New York City metropolitan area is served by a number of public radio stations including WNYC-AM/FM, WBAI-FM, and WBOG-FM, in Newark, NJ.

File No. 92208 PTB Otsego-Northern Catskills BOCES, Frank W. Cyr Center/Rexmere Prk, Stamford, NY 12167-. Signed By: Mr. William R. Miles, District Superintendent. Funds Requested: \$19,931. Total Project Cost: \$29,852. To plan for the refurbishing and possible new site linking of a broadcast television translator system used by the Rural Supplementary Educational Center of the Otsego-Northern Catskills BOCES in Stamford, Delaware County, NY. The translator network would provide interactive distance learning and public broadcasting to 19 rural school districts and towns in central New York state. The project will be carried out with the cooperation of public television station WSKG, Ch. 46, Binghamton, NY.

File No. 92211 CRB Niagara Frontier Radio Read. Serv., P.O. Box 575, Buffalo, NY 14225-. Signed By: Mr. Robert Sikorski, Executive Director. Funds Requested: \$32,000. Total Project Cost: \$64,736. To improve the facilities of the radio reading service for the print handicapped by acquiring a redundant signal generator, replacing and augmenting reading service origination equipment and acquiring 300 SCA receivers. The Niagara Frontier Radio Reading Service is the only radio reading service in its service area.

File No. 92245 CRB Monroe Co. Bd of Coop. Ed. Servs., 41 O'Connor Road, Fairport, NY 14550-. Signed By: Mr. Joseph Farinola, Ph.D. District Superintendent. Funds Requested: \$50,111. Total Project Cost: \$100,222. To expand the service area of public radio station WBER-FM, 90.5 MHz, in Rochester by acquiring a new transmitter, antenna, transmission line and related dissemination equipment. Project will more than double the station's coverage area. WBER-FM provides daily Spanish language programs to meet the needs of the Hispanic population (25,000) within its coverage area. Nine other public radio stations serve the Rochester area.

File No. 92250 PTN Schoepg Access, Inc., 4 Parkway Drive, Cobleskill, NY 12043-. Signed By: Mr. Michael E. Vandow, President. Funds Requested: \$68,103. Total Project Cost: \$92,205. To

plan for the extension of a two-way video network to interconnect seven educational institutions, 13 municipal buildings, and the cable access network in Schoharie County, NY, for interactive distance learning at the primary, secondary, and post-secondary levels.

File No. 92253 CRB Hofstra University, 1000 Fulton Avenue, Hempstead, NY 11550-. Signed By: Mr. James McCue, VP for Business Affairs. Funds Requested: \$38,908. Total Project Cost: \$77,817. To improve public radio station WRHU-FM, 88.7 MHz, in Hempstead by replacing a 30-year old transmitter with a new higher powered unit, replacing a 4-bay antenna with a one-bay antenna, obtaining a microwave studio-to-transmitter link to replace telephone lines. Additionally, WRHU-FM will acquire a satellite downlink in order to receive nationally distributed program services.

File No. 92267 CRB State University of New York, 520 Lee Entrance, Amherst, NY 14228-. Signed By: Mr. Bradley A. Bermudez, Sponsored Programs Associate. Funds Requested: \$63,281. Total Project Cost: \$94,018. To expand and improve public radio station WBFO-FM, 88.7 MHz, in Buffalo by activating new repeater stations in Jamestown, 88.1 MHz, and in Olean, 91.3 MHz. WBFO-FM also seeks to replace/upgrade worn and industrial quality on-air and production equipment and acquire a small complement of test equipment. The Jamestown repeater station will provide additional service while the Olean repeater will provide first public radio service to approximately 37,126 residents. Jamestown presently receives coverage from a Jamestown repeater (WNJA-FM) of WNED-FM (Buffalo) as well as signals from WQLN-FM, in Erie, PA, which is about 58 miles away.

File No. 92271 CRB WMHT Educational T/C, 17 Fern Avenue, Schenectady, NY 12301-0017. Signed By: Mr. William Haley, Jr., President & General Manager. Funds Requested: \$68,596. Total Project Cost: \$137,192. To improve public radio station WMHT-FM, 89.1 MHz, in Schenectady by acquiring a new hot standby studio-to-transmitter link, 2 transmitter exciters, 2 SCA generators, 2 audio boards and other associated dissemination and origination equipment. Equipment being replaced is worn-out and obsolete and in some cases no longer meets FCC requirements. Station also operates repeater satellite station WRHV-FM, 88.7 MHz, in Poughkeepsie, as well as a radio reading service for the print handicapped.

File No. 92274 CTB Pub. Brd. Council of Cent. NY, Inc., 506 Old Liverpool Road, Syracuse, NY 13220-2400. Signed By: Mr. Richard Russell, President & General Manager. Funds Requested: \$135,800. Total Project Cost: \$271,600. To improve the facilities of public television station WCNY-TV, Channel 24, in Syracuse by acquiring Betacam SP editing equipment including 3 videotape recorders, a video production switcher, a time code edit controller, a computer controlled audio mixer and other related equipment. WCNY-TV serves approximately 1,775,000 residents of central New York.

File No. 92298 CTB Northeast NY Pub. T/C Council Inc., One Sesame Street, Plattsburgh, NY 12901-. Signed By: Mr. Gerald Bates, President & General Manager. Funds Requested: \$36,155. Total Project Cost: \$72,310. To extend the signal coverage of WCFE-TV, Channel 57, in Plattsburgh by activating a new television translator on Channel 25, in Monkton, VT. Translator would provide first public television service for approximately 1,200 people and improved coverage for many residents currently receiving a less than satisfactory signal. Translator would be located on a 1,200 ft. peak in Monkton and would send its signal westward across Lake Champlain to provide service to areas not covered due to terrain factors. Other signals in the area include WCFE-TV, Plattsburgh, and WETK-TV, in Burlington, VT.

File No. 92312 CRB Pacifica Foundation, 505 Eighth Ave., 19th Floor, New York, NY 10018-. Signed By: Ms. Valerie Van Isler, General Manager. Funds Requested: \$97,902. Total Project Cost: \$195,804. To improve public radio station WBAI-FM, 99.5 MHz, in New York City by purchasing new signal processing equipment and a new remote monitoring system to complete proper operation of a newly installed transmitter. Also seeks to replace worn, obsolete equipment in the master control room, the principal on-air studio and the news control room. In addition, WBAI-FM will purchase a small complement of test equipment to ensure proper maintenance of the new equipment. WBAI-FM covers approximately 18 million people in the greater New York City metro area.

File No. 92315 CTB Medgar Evers College/CUNY, 1150 Carroll Street, Brooklyn, NY 11225-. Signed By: Mr. Edison Jackson, President. Funds Requested: \$219,776. Total Project Cost: \$293,035. To improve the production facilities of the college by acquiring origination equipment including 3 cameras, a video switcher, color and

black and white monitors, editing equipment including video tape recorders and related items as well as a complement of test equipment. Since 1990, by agreement, the College has used the broadcast facilities of WNYE-TV, Channel 25, licensed to the New York City Board of Education to disseminate its programming. The programs are also carried on cable television services. Programming will be targeted to women and minority audiences in the metropolitan New York City area.

OH (Ohio)

File No. 92018 CRB Ohio University, 9 South College Street, Athens, OH 45701-. Signed By: Mr. T. Lloyd Chesnut, Vice President. Funds Requested: \$99,620. Total Project Cost: \$199,240. To improve the quality and reliability of the signal of public radio station WOUB-FM, operating on 91.3 MHz, in Athens, OH, by replacing its worn-out and obsolete transmitter, antenna, STL, and associated electronic equipment.

File No. 92038 CTB Bowling Green State University, 245 Troup Street, Bowling Green, OH 43403-0060. Signed By: Mr. Louis I. Katzner, Assoc. Vice Pres. for Research. Funds Requested: \$172,172. Total Project Cost: \$344,344. To improve the production capability of public television station WBGU-TV, operating on Ch. 27, Bowling Green, OH, by replacing worn-out and obsolete video tape recording and edit-controller equipment, its studio light control board, and an EFP Camcorder unit, and by adding a non-linear, off-line edit system.

File No. 92063 CTB Public Bdcstg Fndn. of NW Ohio, 136 Huron Street, Toledo, OH 43604-. Signed By: Ms. Shirley E. Timonere, President & General Manager. Funds Requested: \$43,950. Total Project Cost: \$87,900. To improve the operation and production capability of public television station WGTE-TV, Ch. 30, Toledo, OH, by replacing worn-out and obsolete equipment, including video monitoring, still store, and test equipment.

File No. 92065 CRB Public Bdcstg Fndn. of NW Ohio, 136 Huron Street, Toledo, OH 43604-. Signed By: Ms. Shirley E. Timonere, President & General Manager. Funds Requested: \$7,500. Total Project Cost: \$15,000. To improve the reliability and quality of the signal of public radio station WGTE-FM, 91.3 MHz, Toledo, OH, by replacing an obsolete and substandard STL.

File No. 92110 CTB Greater Cincinnati TV Educ. Fndn., 1223 Central Parkway, Cincinnati, OH 45214-2890. Signed By: Mr. W. Wayne Godwin, President & General Manager. Funds Requested: \$774,402. Total Project Cost: \$1,548,804. To improve the broadcast signal of

public television station WCET, Ch. 48, Cincinnati, OH, by replacing its aged, worn-out, and obsolete transmitter, remote control system, and test equipment.

File No. 92124 CRB Youngstown State University, Youngstown, OH 44555-. Signed By: Mr. Neil D. Humphrey, President. Funds Requested: \$23,209. Total Project Cost: \$30,945. To activate a 100-watt translator on 90.1 MHz in Ashtabula, OH, to bring first public radio service to approximately 83,000 persons. The translator will repeat the programming of public radio station WYSU, 88.5 MHz, Youngstown, OH.

File No. 92227 CTB Educational TV of Metro. Cleveland, 4300 Brookpark Road, Cleveland, OH 44134-. Signed By: Ms. Betty Cope, President & General Manager. Funds Requested: \$315,373. Total Project Cost: \$420,498. To improve the production capability of public television station WVIZ, Ch. 25, Cleveland, OH, by replacing its field-production video tape recorders and editing system.

File No. 92235 CRB Dayton Public Radio, Inc., 1514 West Dorothy Lane, Dayton, OH 45409-. Signed By: Mr. John E. Kohnle, President, CEO. Funds Requested: \$346,048. Total Project Cost: \$461,339. To activate a full-service public radio station operating at 50 KW on 89.9 MHz in Greenville, OH, providing service to an estimated 278,274 persons, of whom 176,042 would receive public radio service for the first time.

File No. 92289 CRB Ohio State University, 2400 Olentangy River Road, Columbus, OH 43210-. Signed By: Mr. Dale K. Ouzts, Dir. T/C & GM, WOSU Stations. Funds Requested: \$83,119. Total Project Cost: \$110,825. To activate a new public radio station operating on 91.5 MHz in Portsmouth, OH, to bring first public radio service to about 75,000 persons. It will rebroadcast the program service of WOSU-FM, 89.7 MHz, Columbus, OH.

File No. 92307 CRB University of Rio Grande, 218 North College Street, Rio Grande, OH 45674-. Signed By: Dr. Barry M. Dorsey, President. Funds Requested: \$110,088. Total Project Cost: \$146,784. To activate a public radio station on 90.9 MHz in Rio Grande, OH. It would serve an estimated 20,000 persons.

OK (Oklahoma)

File No. 92069 CTB Oklahoma Educational TV Authority, 7403 North Kelley Avenue, Oklahoma City, OK 73113-. Signed By: Mr. Robert L. Allen, Executive Director. Funds Requested: \$695,000. Total Project Cost: \$1,445,000. To improve public television station

KTLC-TV, Channel 43, in Oklahoma City. Station was donated to OETA in July 1991. Project would acquire a tower, studio and production equipment to meet the critical problems of the illiteracy, educational and training needs of OK. The former licensee's 1,500 foot tower, now owned by the Oklahoma Educational Television Authority Foundation, a separate legal entity, will be donated to OETA as the \$750,000 local match for this project. KTLC-TV will provide a second educational service to about 2 million residents of 31 counties in central OK. Oklahoma City is also served by the applicant's other public television station, KETA-TV, Channel 13.

File No. 92091 CRB East Central University, 200 Stadium Drive, Ada, OK 74820-6899. Signed By: Dr. Bill Cole, President. Funds Requested: \$137,475. Total Project Cost: \$183,301. To activate a new public radio station on 91.3 MHz in Ada, OK. Station would have 2 kilowatts power and would provide a first public radio signal to an estimated 40,000 residents of Pontotoc County. In addition to providing educational programming, public service announcements and news not currently available, station would provide an educational experience in the operation of a radio station for the university's students who are majoring in radio/television.

File No. 92277 CTN Rural Electric Cooperative, Inc., Highway 76, North, Lindsay, OK 73052-. Signed By: Mr. Mike Treadwell, General Manager. Funds Requested: \$285,000. Total Project Cost: \$1,285,000. To construct four four-channel ITFS systems, licensed to the public school systems in Alex, Lindsay, Paolo, and Rush Springs, all in south central Oklahoma. The project would interconnect 20 public school systems in that area for the reception and exchange of instructional programming.

File No. 92320 PTN Oklahoma State University, 210 Public Information Building, Stillwater, OK 74078-0653. Signed By: Dr. Harry W. Birdwell, VP of Univ. & Public Affairs. Funds Requested: \$300,000. Total Project Cost: \$676,000. To develop a comprehensive national plan for the distribution of instructional programming designed to train, retrain and educate America's workforce at places of employment. One primary objective is the preparation of an inventory of existing telecommunications facilities and programming resources intended for adult workers. Another important objective is the identification of barriers inhibiting more effective use of telecommunications for job-site training

and the formulation of ways to overcome these barriers.

OR (Oregon)

File No. 92066 CTB Southern Oregon Public TV, Inc., 34 S. Fir Street, Medford, OR 97501-. Signed By: Mr. Fred Flaxman, Vice President & GM. Funds Requested: \$1,032,193. Total Project Cost: \$1,442,925. To extend and improve the transmission and production capabilities of public television station KSYS-TV operating on channel 8, Medford, OR, by replacing their transmitter system, test equipment and master control facilities in their new building and also installing a Ku band uplink. This project will provide a first service to 55,543 residents and improve service to 350,000 residents of southern Oregon.

File No. 92168 CRB School Dist. 4J, Lane County, OR, 200 North Monroe St., Eugene, OR 97402-. Signed By: Ms. Margaret Nichols, Superintendent. Funds Requested: \$12,450. Total Project Cost: \$24,900. To extend the signal of public radio station KRVM-FM, a student operated public radio station licensed to Lane County School District 4J, operating on 91.9 MHz, Eugene, OR, by replacing a worn out and obsolete transmission system to better serve 171,000 residents of the Eugene area.

File No. 92276 CTB OR Commission of Pub. Broadcasting, 7140 S.W. Macadam Avenue, Portland, OR 97219-. Signed By: Mr. Maynard Orme, President & CEO. Funds Requested: \$173,378. Total Project Cost: \$346,756. To improve the operation of Oregon Public Broadcasting Commissions state-wide transmission system, originating from Portland, OR, by replacing five worn out microwave repeaters and nine translators which are subject to numerous operational failures. Replacement of these items will assure reliable public television service to 536,000 residents of central and northern Oregon.

File No. 92279 CTB OR Commission on Pub. Broadcasting, 7140 S.W. Macadam Avenue, Portland, OR 97219-. Signed By: Mr. Maynard Orme, President & CEO. Funds Requested: \$197,500. Total Project Cost: \$395,000. To improve the transmission capability of the Oregon Public Broadcasting Commission operating from Portland, Oregon by replacing their present complement of VTR units with 10, 1/2" Beta machines to better serve 2,800,000 residents of the state.

File No. 92295 CTN Portland State University, 506 Southwest Mill, Portland, OR 97201-. Signed By: Mr. William C. Savery, Vice Provost, Grad Stud & Res. Funds Requested: \$175,287. Total Project Cost: \$233,716. To purchase microwave,

studio and test equipment to allow Portland State University, Portland, OR, to interconnect with and contribute instructional programming to the ITFS and other distribution facilities of Oregon Public Broadcasting, the Oregon ED-NET system, and Portland Community College.

PA (Pennsylvania)

File No. 92012 CTB NE Penn. Educ. Television Assoc., 70 Old Boston Road, Pittston, PA 18640-. Signed By: Mr. A. William Kelly, President and CEO. Funds Requested: \$54,396. Total Project Cost: \$108,793. To improve public television station WVIA-TV, operating on channel 44 in Scranton, PA, by replacing an obsolete studio lighting board, and upgrading on-site origination equipment.

File No. 92013 CRB NE Penn. Educ. Television Assoc., 70 Old Boston Road, Pittston, PA 18640-. Signed By: Mr. A. William Kelly, President and CEO. Funds Requested: \$32,848. Total Project Cost: \$65,696. To replace old worn out audio broadcast consoles and reel to reel audio tape equipment for WVIA-FM's master control and production studio.

File No. 92016 CTB Pennsylvania State University, 202 Wagner Building, University Park, PA 16802-3899. Signed By: Mr. James Ryan, VP for Continuing Education. Funds Requested: \$424,671. Total Project Cost: \$566,229. To replace essential maintenance-plagued and obsolete production equipment at Public Television station WPSX-TV operating on Ch. 3 in University Park, PA, with more reliable and state-of-the-art cameras and associated items.

File No. 92044 PRB WPSX-TV, Continuing Education, 202 Wagner Building, University Park, PA 16802-3899. Signed By: Mr. James Ryan, VP for Continuing Education. Funds Requested: \$21,000. Total Project Cost: \$34,419. To plan for noncommercial public radio station, WPSU-FM in University Park, PA, to expand its radio service into unserved areas of Central Pennsylvania.

File No. 92067 CTB WQED Communications, 4802 Fifth Avenue, Pittsburgh, PA 15213-. Signed By: Mr. Lloyd Kaiser, President. Funds Requested: \$536,125. Total Project Cost: \$1,072,251. To improve public television station, WQED-TV operating on Channel 13 in Pittsburgh, PA, by replacing worn-out, deteriorated RCA transmitter.

File No. 92092 CRB Public Broad. of Northwest PA Inc., 8425 Peach Street, Erie, PA 16509-. Signed By: Mr. Paul Stankavich, President & General Manager. Funds Requested: \$56,884.

Total Project Cost: \$113,769. To improve public radio station WQLN-FM, operating on 91.3 MHz in Erie, PA, by adding remote control of its transmitter and upgrading studio and on-site production equipment.

File No. 92098 CTB Lehigh Valley Public T/C Corp., Mountain Drive, Bethlehem, PA 18015-. Signed By: Mr. Sheldon Siegel, President. Funds Requested: \$144,125. Total Project Cost: \$288,250. To improve public television station WLVT-TV operating on Channel 39 in Bethlehem/Allentown, PA, by replacing the antenna and transmission line.

File No. 92106 CRB University of Scranton, Linden and Monroe Streets, Scranton, PA 18510-4592. Signed By: Mr. Richard Passon, Ph.D., Academic V.P./Provost. Funds Requested: \$51,195. Total Project Cost: \$68,261. To establish a noncommercial FM radio station WUSR-FM, operating on 99.5 MHz in Scranton, PA, to provide the second public radio service to the people of northwestern PA. Applicant now operates a carrier current radio station serving 1600 students at the University of Scranton.

File No. 92117 PTN Saint Joseph's University, 5600 City Avenue, Philadelphia, PA 19131-1395. Signed By: Rev. Nicholas S. Rashford, S.J., President. Funds Requested: \$406,000. Total Project Cost: \$406,000. Saint Joseph's University is applying for a planning grant for its Telecommunications Facility, estimated to be constructed by May, 1995. This planning grant would provide the funds needed to consult with telecommunications experts as well as to travel to the appointed sites to establish communication links among five area Jesuit institutions: Saint Joseph's University, Wheeling Jesuit College, Georgetown University, University of Scranton, and Loyola College. In addition, the Telecommunications Facility will be utilized to disseminate information to and teach the U.S. agricultural sector through the University's Center for Food Marketing.

File No. 92122 CRB WITF, Inc., 1982 Locust Lane, Harrisburg, PA 17109-. Signed By: Mr. John T. Blair, Senior V.P. & Station Mgr., Funds Requested: \$10,211. Total Project Cost: \$20,422. To extend the signal of public radio station WITF-FM, operating on 89.5 MHz in Harrisburg, PA, to provide the 2nd public radio service in Reading PA, by constructing a translator.

File No. 92133 CTN City of Allentown, City Hall—435 Hamilton Street, Allentown, PA 18101-. Signed By: Mr. Joseph L. Rosenfeld, Asst. to the Mayor/

Cmty Affairs. Funds Requested: \$387,273. Total Project Cost: \$774,547. To establish a studio facility for the City of Allentown for the production of programming to be distributed over the community access channel of the local cable television system.

File No. 92215 PTN University of Pittsburgh, 350 Thackeray Hall, Pittsburgh, PA 15260-. Signed By: Mr. Michael M. Crouch, Director, Office of Research. Funds Requested: \$87,582. Total Project Cost: \$274,802. To support planning activities of the University of Pittsburgh, Pittsburgh, PA, for the Telecommunications Education and Research Network, a consortium of universities, which will assemble, operate, and maintain a broadband telecommunications network for education and research, using fiber optic cable and other technologies. The planned network will interconnect colleges and universities nationwide.

File No. 92246 CRB Duquesne University, Pittsburgh, PA 15282-. Signed By: Ms. Judy Jankowski, Director. Funds Requested: \$37,125. Total Project Cost: \$92,500. To improve public radio station WDUQ-FM, operating on Frequency 90.5 MHz, in Pittsburgh, PA, by replacing an antenna and transmission line damaged by fire on February 13, 1992 forcing applicant to reduce power to 500 watts resulting in more than 2 million residents without NPR service. Although technically this project is a 4A, the emergency aspect should earn it a Special 2 priority.

File No. 92249 CRB Golden Triangle Radio Info. Cen, 408 Communications Center, Pittsburgh, PA 15282-. Signed By: Mr. William Pasco, General Manager. Funds Requested: \$99,525. Total Project Cost: \$132,700. To upgrade the SCA capabilities and services of this Radio Information Service operating through WDUQ-FM, 90.5 MHz, in Pittsburgh, PA, by expanding the recording and on-air facilities, bringing the technical plant up to industry standards, acquiring a satellite downlink for national sources of printed news and eliminating a waiting list for SCA receivers.

File No. 92258 CTB Independence Public Media of, 6117 Ridge Avenue, Philadelphia, PA 19128-. Signed By: Mr. Felix A. Colon, Director of Tech. Operations. Funds Requested: \$100,000. Total Project Cost: \$150,000. To improve public television station WYBE-TV, operating on Channel 35 in Philadelphia, PA, by acquiring additional origination editing equipment.

PR (Puerto Rico)

File No. 92064 CTN Fundacion Educativa Ana G. Mendez, Stat Road

176 Km. 0.3, Cupey, Rio Piedras, PR 00928-1404. Signed By: Mr. Jose F. Mendez, President. Funds Requested: \$1,135,769. Total Project Cost: \$1,514,359. To establish an island-wide instructional television fixed service (ITFS) system operating through WMTJ-TV, channel 40, Rio Piedras, PR, that will interconnect Puerto Rico colleges and universities with numerous business and industrial sites. The network will provide job site training for workers and will enable participating institutions to share academic courses.

File No. 92156 CRB Univ. of Puerto Rico—Rio Piedras, Ponce de Leon and Pastrana St., Rio Piedras, PR 00931-. Signed By: Mr. Juan Fernandez, Chancellor. Funds Requested: \$91,537. Total Project Cost: \$122,050. To upgrade the applicant's existing public radio downlink to include uplink capability. The project will make the applicant's Spanish language programming available to public radio stations throughout the United States that seek to serve the Spanish-speaking Latino populations of their regions. The applicant operates Spanish language public radio station WRTU-FM.

RI (Rhode Island)

File No. 92269 CRB The Wheeler School, 216 Hope Street, Providence, RI 02906-. Signed By: Mr. Mark A. Johnsen-Harris, Director. Funds Requested: \$118,072. Total Project Cost: \$157,429. To establish a student operated FM station operating on 88.1 MHz in Providence, RI, to provide training in broadcasting and community service programming to Providence and southern Massachusetts.

SC (South Carolina)

File No. 92017 CTN S.C. Educ. Television Commission, 2712 Millwood Avenue, Columbia, SC 29205-. Signed By: Mr. Ronald L. Schoenherr, Senior Vice President. Funds Requested: \$601,800. Total Project Cost: \$1,199,082. To construct a satellite uplink to provide instructional television programs to students in rural secondary schools outside the range of the applicant's existing delivery systems. The project also includes digital compressed video equipment so more than one signal can be broadcast on a single satellite channel and 102 satellite receive antennas for placement at schools. The applicant currently distributes over 50 hours of educational television programming each day via a combination of eleven public television stations, terrestrial microwave and Instructional Television Fixed Service (ITFS) systems.

File No. 92179 PTN University of South Carolina, Columbia, SC 29208-. Signed By: Mr. Ardis M. Savory, Associate Vice Provost. Funds Requested: \$126,119. Total Project Cost: \$126,119. To plan for a telecommunications facility for educational and distance learning purposes that would be used by the University of South Carolina Coastal Carolina College in Columbia, SC, Horry Georgetown Technical College, Horry County School District, Horry County Government, and local business/industry.

File No. 92260 CTN Satellite ED Resources Consortium, 939 South Stadium Road, Columbia, SC 29201-. Signed By: Mr. Gary N. Vance, Executive Director. Funds Requested: \$1,228,075. Total Project Cost: \$2,456,150. To extend the use of the applicant's distance learning courses by purchasing 296 receive-only, C and Ku-band steerable satellite earth terminals for predominantly small, rural secondary schools in 12 states. The states and number of sites covered by this project are: Florida, 2; Georgia, 25; Mississippi, 4; Nebraska, 16; New Jersey, 21; New York, 21; North Carolina, 4; Ohio, 33; Pennsylvania, 21; South Carolina, 4; West Virginia, 25; Wisconsin, 139. SERC currently provides specialized instructional materials to 5,000 students enrolled in 500 schools in 23 states.

SD (South Dakota)

File No. 92129 CTB SD Board of Dir. for Educ. T/C, Cherry & Dakota Streets, Vermillion, SD 57069-5000. Signed By: Mr. Larry D. Miller, Deputy Executive Director. Funds Requested: \$101,380. Total Project Cost: \$202,760. To improve the facilities of public television station KBHE-TV, Channel 9, in Rapid City by replacing the approximately 25 year old RCA transmitter and related equipment with a new solid-state transmission system. In addition to the dissemination equipment, appropriate test equipment will be acquired. Station serves approximately 115,000 residents within its service area.

File No. 92147 CTB SD Board of Dir. for Educ. T/C, Cherry & Dakota Streets, Vermillion, SD 57069-5000. Signed By: Mr. Larry D. Miller, Deputy Executive Director. Funds Requested: \$80,000. Total Project Cost: \$160,000. To improve the facilities of public television stations KUSD-TV, Channel 2, Vermillion, and KESD-TV, Channel 8, Brookings, by replacing two obsolete, wornout video switchers. The switchers which were purchased in 1976, will be replaced by two new hybrid analog/digital switchers.

File No. 92254 CTN Cheyenne River Sioux Tribe, P.O. Box 590, Eagle Butte, SD 57625-. Signed By: Mr. Gregg J. Bourland, Chairman. Funds Requested: \$58,570. Total Project Cost: \$78,093. To purchase studio equipment for the Cheyenne River Sioux Tribe, whose reservation is in west central South Dakota. The equipment will allow the Tribe to originate diverse programming to be disseminated via the Reservation's cable television system.

TN (Tennessee)

File No. 92011 CRB University of Tenn. at Chattanooga, 615 McCallie Avenue, Chattanooga, TN 37403-2598. Signed By: Mr. Frederick W. Obeir, Chancellor. Funds Requested: \$5,177. Total Project Cost: \$10,354. To improve the service of public radio station WUTC-FM, 88.1, Chattanooga, TN, by replacing a malfunctioning transmitter exciter and adding a more modern Audio Prism. WUTC-FM serves approximately 1 million listeners in the Greater Chattanooga area.

File No. 92101 CTN Dyersburg State Community College, P.O. Box 648, Dyersburg, TN 38024-. Signed By: Ms. Karen A. Bowyer, President. Funds Requested: \$154,875. Total Project Cost: \$206,500. To initiate two-way video and audio instruction at Dyersburg State Community College (Dyersburg, TN) and the Dyersburg State Gibson County Center (Trenton, TN) through the installation of two-way interactive instructional classrooms. The system will employ compressed video technology and use T-1 telephone lines, which are leased to education at 30% of commercial rates. The proposed network will be linked to the Memphis State two-way interactive network.

File No. 92174 CTN Williamson County School System, 5304 Murray Lane, Brentwood, TN 37027-. Signed By: Mr. James Parker, Principal. Funds Requested: \$108,418. Total Project Cost: \$356,418. To construct a production studio at Brentwood High School, Williamson County, TN, for the origination of instructional programming to be distributed via the county's cable television system.

File No. 92222 PRB Cumberland Communities Comm. Corp., Route 1, Box 808, Duff, TN 37729-. Signed By: Mr. Tony Lawson, President/Project Director. Funds Requested: \$14,000. Total Project Cost: \$18,500. To plan for the construction of a public radio station to serve northeast Tennessee and southeast Kentucky with programming focusing on Appalachian history and culture, including Bluegrass, acoustic music, storytelling, and ecological subjects.

File No. 92305 PTN Bristol Tennessee City School Sys., 615 Edgemont Avenue, Bristol, TN 37620-. Signed By: Dr. James A. Street, Superintendent of Schools. Funds Requested: \$25,440. Total Project Cost: \$33,920. To conduct a feasibility study of establishing a two-way interactive video classroom at Bristol High School, Bristol, TN, that would allow the school to participate in distance learning activities with other school systems in northeast Tennessee. Optical fiber would be the distribution medium.

TX (Texas)

File No. 92022 CRB South TX Public Broadcasting Sys., 4455 So. Padre Island Dr./No. 38, Corpus Christi, TX 78411-. Signed By: Mr. Peter Frid, President & General Manager. Funds Requested: \$252,600. Total Project Cost: \$336,800. To improve KEDT-FM, 90.3 MHz, in Corpus Christi by replacing its ten-year-old transmitter, remote control and making extensive repairs to the existing KEDT-TV tower that has been in its present location for twenty years. High humidity has resulted in serious damage to the tower and dissemination equipment. In addition, KEDT-FM seeks to replace old and outdated origination equipment including 3 audio consoles, 6 cart machines, 2 reel to reel recorders, 4 CD players and 6 cassette recorders.

File No. 92058 CTN Brady Independent School District, 1000 S. Wall Street, Brady, TX 76825-. Signed By: Dr. Douglas Moore, Superintendent. Funds Requested: \$107,012. Total Project Cost: \$142,682. To establish a studio production facility at the Brady Independent School District, Brady, TX, to allow the District to produce instructional programming to be transmitted by a dedicated channel of the local cable television system. The project will also purchase microwave equipment to interconnect the production facility to a facility of the Central Texas Telephone Company, Lohn, TX. From there, the programming will be transmitted over a wireless cable system to receivers throughout this area of central Texas.

File No. 92078 CTB Texas Public Broadcasting, Inc., 3000 Harry Hines Blvd., Dallas, TX 75201-. Signed By: Mr. Richard J. Meyer, President. Funds Requested: \$45,842. Total Project Cost: \$91,685. To improve public television station KERA-TV, Channel 13, in Dallas by replacing a worn and damaged 15 year old production audio console and a 15 year old intercom system. The requested origination equipment will have a beneficial impact on KERA-TV and the applicant's second public

television station, KDTN-TV, Channel 2, licensed to Denton.

File No. 92083 CTB North Texas Public Broad, Inc., 3000 Harry Hines Blvd., Dallas, TX 75201-. Signed By: Mr. Richard Meyer, President. Funds Requested: \$79,750. Total Project Cost: \$159,500. To improve public television station KERA-TV, Channel 13, in Dallas by replacing a worn and damaged 13 year old production switcher. In addition to the direct impact on KERA-TV; the applicant's second public television station, KDTN-TV, Channel 2, licensed to Denton, will also benefit from the replacement of this outdated switcher.

File No. 92143 CTB Alamo Public T/C Council, 501 South Bowie, San Antonio, TX 78205-3296. Signed By: Ms. Joanne Winik, President & General Manager. Funds Requested: \$747,744. Total Project Cost: \$1,206,039. To improve public television station KLRN-TV, Channel 9, in San Antonio by replacing old dissemination and origination equipment in conjunction with the station's required move to new studio facilities. Station will acquire a new studio to transmitter link, new studio cameras, routing system, editing suites, lighting system and associated origination equipment. KLRN-TV serves approximately 2 million persons. Station hopes to complete move without any interruption in service to its viewers. Administrative offices must be moved by September, 1992, and the total relocation of KLRN-TV technical facilities must be completed within one year.

File No. 92146 CTB Capital of TX Public T/C Council, 2504-B Whitis Street, Austin, TX 78705-. Signed By: Mr. Bill Arhos, President/Station Manager. Funds Requested: \$425,680. Total Project Cost: \$851,360. To improve public television station KLRU-TV, Channel 18, in Austin by replacing the transmitter system, the remote control, the transmitter ventilation system and associated dissemination equipment. The current transmitter, an RCA TTU-55, is 14 years old and is no longer manufactured and parts are difficult to obtain. The transmitter has experienced several failures, the most recent being in December, 1991, when it was off the air for nearly eight days.

File No. 92152 CTB Central Texas College, P.O. Box 1800, Killeen, TX 76540-9990. Signed By: Mr. B.W. Beebe, Contracting Officer. Funds Requested: \$109,400. Total Project Cost: \$218,800. To improve the facilities of public television station KCTF-TV, Channel 34, in Waco by replacing old studio to transmitter microwave equipment. In addition, project would replace microwave

equipment between KNCT-TV's studio and PBS downlink located in Killeen and the KCTF-TV studio and transmitter in Waco. In May, 1991, KCTF-TV received CPB qualification but has no PBS downlink of its own and thus must rely on the KNCT-TV downlink for PBS programming.

File No. 92159 CTB Central Texas College, P.O. Box 1800, Killeen, TX 76540-9990. Signed By: Mr. B.W. Beebe, Contracting Officer. Funds Requested: \$188,230. Total Project Cost: \$268,900. To improve public television station KNCT-TV, Channel 46, in Killeen by replacing wornout and obsolete dissemination equipment including a transmitter exciter, demodulator, down converter and aural modulation monitor. In addition, KNCT-TV will replace old origination equipment with a new 24 input production switcher, a master control routing switcher, frame synchronizer and other related equipment. Equipment being replaced is over 15 years old and is no longer manufactured nor supported by the original manufacturer.

File No. 92192 CRB Taping for the Blind, 3935 Essex Lane, Houston, TX 77027-. Signed By: Mr. Jean Di Francis, Interim Director. Funds Requested: \$21,685. Total Project Cost: \$43,370. To improve the facilities of the radio reading service for the print-handicapped by replacing and updating origination equipment including an audio console, cart machines, CD players, reel to reel recorders and associated equipment. Reading service uses the subcarrier of KUHF-FM, 88.7 MHz, in Houston and serves about 5,000 listeners.

File No. 92209 CRB Prairie View A&M University, P.O. Box 156, Prairie View, TX 77446-. Signed By: Mr. Julius Becton, Jr., President. Funds Requested: \$75,750. Total Project Cost: \$101,000. To improve/expand the coverage area of public radio station KPVU-FM, on 91.3 MHz in Prairie View by replacing the transmitter, antenna and coax cable. Station proposed to increase power from 10 KW to 25 KW when it replaces its problem transmission system. The station is licensed to a Historically Black College/University and is located northwest of the Houston market which includes several other public radio stations: KUHT, KPFT, KTSU. In addition, KAMU-FM, College Station, is located northwest of Prairie View.

File No. 92217 CTB Starr County Historical Fdn., Inc., 601 E. Main Street, Rio Grande City, TX 78582-. Signed By: Mr. Crisanto Salinas, Executive Director. Funds Requested: \$397,500. Total Project Cost: \$530,000. To activate a new Low Power Public Television

station on Channel 40, in Rio Grande City. Proposed station will provide a first public television service for an estimated 40,515 persons in Starr County. Station will be a vehicle for the local expression and promotion of the preservation of the area's historical and cultural characteristics. Closest public television station is KMBH-TV, Channel 60, in Harlingen.

File No. 92239 CTN El Paso Community College, P.O. Box 20500, El Paso, TX 79998-. Signed By: Mr. Leonardo de la Garza, President. Funds Requested: \$305,212. Total Project Cost: \$406,950. To establish an ITFS facility at El Paso Community College, El Paso, TX. The project will connect the College's four campuses as well as sites of the public school districts in El Paso County. The project will also purchase studio equipment and a satellite receive-only earth station.

File No. 92287 CTB University of Houston System, 1600 Smith Suite 3400, Houston, TX 77002-. Signed By: Mr. B. Dell Felder, Senior Vice Chancellor. Funds Requested: \$107,680. Total Project Cost: \$269,200. To improve the facilities of public television station KUHT-TV, Channel 8, Houston by acquiring portable microwave interconnection equipment and origination equipment for a remote mobile unit.

File No. 92300 CTB Navarro College, 3200 West 7th Avenue, Corsicana, TX 75110-. Signed By: Mr. Gerald Burson, President. Funds Requested: \$1,125,596. Total Project Cost: \$1,500,795. To improve the facilities of Low Power Television Station K30DG-TV, Channel 30, in Corsicana by replacing and upgrading a variety of dissemination, origination, interconnection, and test equipment as well as other associated equipment. Equipment being replaced includes Klystron tubes, video tape recorders/players, consoles, lighting equipment as well as portable production equipment. Station serves approximately 150,000 residents within its coverage area.

File No. 92326 CRB Alamo Council of the Blind, 1222 N. Main, Suite L-16A, San Antonio, TX 78212-. Signed By: Mr. Rene Fernandez, President. Funds Requested: \$21,945. Total Project Cost: \$29,260. To activate a new radio reading service for the print-handicapped using the subcarrier frequency of public radio station KSYM-FM, 90.1 MHz, in San Antonio. KSYM-FM is licensed to San Antonio College. In addition to origination equipment, the applicant also seeks a satellite earth terminal and 50 SCA receivers.

UT (Utah)

File No. 92049 CRB KWCR/ Department of Communications, 3750 Harrison Blvd., Ogden, UT 84408-. Signed By: Mr. Lee Carrillo, Director, Grants & Contracts. Funds Requested: \$21,885. Total Project Cost: \$43,885. To improve the production facilities of public radio station KWCR-FM, operating on 88.1 MHz in Ogden, UT, replacing and upgrading origination equipment to deliver programming to residents of northern Utah.

File No. 92087 CRTBN University of Utah, Building 002, Salt Lake City, UT 84112-. Signed By: Mr. Ted R. Capener, Vice President/Univ. Relations. Funds Requested: \$973,758. Total Project Cost: \$1,316,220. To improve public TV stations, KUED, Channel 7 and KUKC, Channel 9, and KUER-FM, operating on 90.1 MHz, all in Salt Lake City, UT, by replacing a translator at Huntsville and one at Barney Top, by adding 2 TV translators and 3 Radio translators to unserved rural areas. Additionally, this project will provide a new phase of EDNET expansion using existing T1 services and compressed video technology, nonbroadcast, to allow unconnected high schools to share educational programming.

File No. 92096 CTB University of Utah, 101 Gardner Hall, Salt Lake City, UT 84112-. Signed By: Mr. Ted Capener, VP for University Relations. Funds Requested: \$269,295. Total Project Cost: \$538,590. To improve public television station KUED, operating on Channel 7 in Salt Lake City, by replacing wornout and obsolete origination equipment needed to maintain quality programming to residents of northern Utah.

File No. 92165 CRB Community Wireless of Park City, Box 1372/445 Marsac Avenue, Park City, UT 84060-. Signed By: Mr. Blair Feulner, Secretary/Treasurer. Funds Requested: \$34,353. Total Project Cost: \$68,707. To improve public radio station KPCW-FM, operating on 91.9 MHz in Park City, UT, by adding a satellite downlink to provide NPR network programming, by replacing a wornout and obsolete on-air console, and upgrading recorders.

File No. 92197 CRB Utah State University, Logan, UT 84321-. Signed By: Ms. Kay Jeppesen, Director, Contracts & Grants. Funds Requested: \$10,481. Total Project Cost: \$13,975. To extend the signal of public radio station KUSU-FM, operating on 91.5 MHz in Logan, UT, by providing 2 translators located in the towns of Rockville and Springdale and in the community of Parawan in Utah to bring first signal to these rural unserved areas.

File No. 92218 CRB Listener's Community Radio of Utah, 208 West 800 South, Salt Lake City, UT 84101-. Signed By: Ms. Michelle Entwistle. Development Intern. Funds Requested: \$13,633. Total Project Cost: \$18,177. To extend the local program service of noncommercial FM station, KRCL operating on 90.9 MHz in Salt Lake City, UT, by constructing a translator system to bring alternative radio to the rural community of Park City and its surrounding areas.

File No. 92293 CTN Southern Utah University, 351 West Center, Cedar City, UT 84720-. Signed By: Mr. Gerald R. Sherratt, President. Funds Requested: \$223,634. Total Project Cost: \$298,179. To construct a Ku-band satellite uplink facility at Southern Utah University (SUU). The facility will distribute educational programming to residents of Utah, Arizona, Nevada and Colorado from SUU and the Utah Ednet system, a statewide educational microwave network.

VA (Virginia)

File No. 92100 CTB Shenandoah Valley Educ. TV Corp., 298 Port Republic Road, Harrisonburg, VA 22801-. Signed By: Mr. Arthur E. Albrecht, President. Funds Requested: \$203,236. Total Project Cost: \$406,473. To improve the service of public television station WVPT-TV, Ch. 51, Staunton, VA, by replacing its studio video switcher, electronic field production cameras and recorders, and associated EFP editing systems. WVPT-TV serves 249,227 viewers in Rockbridge, Augusta, Rockingham, and Shenandoah counties, and the municipalities of Lexington, Buena Vista, Staunton, and Harrisonburg; by cable and translator, the station also serves viewers in 13 additional counties and municipalities.

File No. 92104 CTB Central VA Educ. T/C Corporation, 8101A Lee Highway, Falls Church, VA 22042-. Signed By: Mr. Kenneth F. Gardner, Station Manager. Funds Requested: \$146,996. Total Project Cost: \$293,992. To replace failing and worn-out studio production equipment of television station WNVC-TV, Ch. 56, Falls Church, VA. The equipment is housed at the station's studio at the state capitol in Richmond, VA, and is used to provide a state-wide reporting service. The station also wishes to initiate a weekly current events participation program for high school students in all educational districts of Virginia.

File No. 92120 CTN Clarendon Foundation, 13422 Elliott An Court, Herndon, VA 22071-. Signed By: Mr. Kemp Harshman, President. Funds Requested: \$15,600. Total Project Cost:

\$20,800. To provide portable production capability and satellite interconnection for the establishment of the History Channel. The History Channel intends to provide educational programming regarding American History via ITFS systems nationwide. The Clarendon Foundation has an application for four ITFS channels to serve Las Vegas, NV, pending before the Federal Communications Commission.

File No. 92185 CTB Central VA Educ. T/C Corp., 23 Sesame St., Richmond, VA 23235-. Signed By: Mr. Richard E. Hall, Vice President, Broadcasting. Funds Requested: \$273,690. Total Project Cost: \$547,380. To improve the service of the Central Virginia Educational Telecommunications Corporation, which provides programming to 6 public television stations statewide, by replacing obsolete or worn-out equipment in its WCVE-TV control center in Richmond, VA, including video monitors and test equipment; audio consoles; videotape machines; character generators; and a routing switcher. CVETC serves approximately 6.1 million viewers statewide.

File No. 92212 CRB University of Virginia, 711 Newcomb Hall Station, Charlottesville, VA 22901-. Signed By: Mr. D. Wayne Jennings, Director, Sponsored Programs. Funds Requested: \$20,226. Total Project Cost: \$40,452. To improve the service of public radio station WTJU-FM, 91.3 MHz, Charlottesville, VA, by replacing an aging transmitter and relocating it to an improved site. WTJU also plans to change broadcast frequencies, from 91.3 MHz to 91.1 MHz, to reduce co-channel interference. WTJU is the broadcast service of the University of Virginia, offering a mix of rock, jazz, folk, and classical music, along with daily news broadcasts from the Pacifica News Service. The relocation of the transmitter will add 60,075 listeners to WTJU's present audience of 188,163.

File No. 92257 PTN Collex, Inc., 1431 Towlston Road, Vienna, VA 22182-. Signed By: Mr. Peter D. Tuddenham, Executive Director. Funds Requested: \$15,000. Total Project Cost: \$15,000. To help Collex, Inc.—which has established the College of Exploration in Vienna, VA—plan for a distance learning network. The proposed network would be entitled the Exploration Learning Network and would involve interactive, mobile, digitally-compressed technologies with instructional and videoconferencing applications.

File No. 92261 CTB Hampton University, Hampton, VA 23668-. Signed By: Mr. William R. Harvey, President. Funds Requested: \$1,376,892. Total

Project Cost: \$1,835,856. To construct a public educational television station on the campus of Hampton University for the purpose of broadcasting secondary and college-level telecourses to the Tidewater area of Virginia. The new station, operating as Channel 55, will initially broadcast 17 hours per day, six days per week; additionally, the University will also broadcast pre-produced courses developed by external entities and acquired through an ITFS antenna and existing satellite downlink facilities on campus. The proposed station will be the second station in this market, which is served by WHRO-TV, Norfolk, VA.

File No. 92268 CRB Virginia Tech Foundation, Inc., 4235 Electric Road SW, Roanoke, VA 24014-. Signed By: Mr. Charles M. Forbes, Executive Vice President. Funds Requested: \$18,562. Total Project Cost: \$24,750. To extend and improve the service of WVTU-FM, 89.3 MHz, Charlottesville, VA, by replacing the transmitter and antenna and increasing the power output from 195 watts to 3,200 watts. This power increase will add approximately 23,229 persons in the Augusta, Nelson, Fluvanna, Louisa, Buckingham, and Greene County area. In addition, approximately 44,830 persons living in Augusta and Albemarle Counties will receive a second public radio signal. WVTU-FM currently serves approximately 1.064 million listeners in north-central Virginia. The power increase will also extend the reach of WVTU-FM's Radio Reading Service; therefore, funding is also sought for 100 additional SCA receivers.

VT (Vermont)

File No. 92026 CTB Vermont ETV, Inc., 88 Ethan Allen Avenue, Colchester, VT 05446-. Signed By: Mr. John E. King, Vice President, Fin. & Admin. Funds Requested: \$302,500. Total Project Cost: \$805,000. To upgrade the transmission capability of Vermont ETV, Colchester, VT, by installing a master control automation system to better serve 899,000 residents of Vermont, eastern New York and western New Hampshire. The automation system will provide a significant improvement in productivity while reducing operating costs.

WA (Washington)

File No. 92139 CRB Washington State University, 382 Murrow Communications Center, Pullman, WA 99264-2530. Signed By: Mr. Robert V. Smith, Vice Provost for Research. Funds Requested: \$46,750. Total Project Cost: \$93,500. To improve the program service of public radio station KFAE-FM, Richland, WA, operating on 89.1 MHz

by establishing local origination and remote production facilities as well as upgrading the interconnection system connecting the station with its primary station, KWSU-FM Pullman. The improvements will significantly enhance service to 612,000 residents of south central Washington and Northern Oregon.

File No. 92154 CRB Northwest Chicano Radio Network, 121 Sunnyside Avenue, Granger, WA 98932-. Signed By: Mr. Ricardo Garcia, General Manager. Funds Requested: \$98,588. Total Project Cost: \$131,450. To extend and improve the transmission and production capability of public radio station KDNA-FM operating on 91.9 MHz, Granger, WA by installing a satellite repeater station in Royal City, WA, to provide a first public radio service to 50,000 residents of the Yakima Valley. The station also intends to replace a worn out and outdated remote control transmitter monitoring system as well as studio and test equipment to improve their broadcast operations.

File No. 92201 CRB Spokane Public Radio, 2319 North Monroe Street, Spokane, WA 99205-. Signed By: Mr. Richard L. Kunkel, General Manager. Funds Requested: \$7,743. Total Project Cost: \$10,324. To extend the signal of public radio station KPBX-FM operating on 91.1 MHz, Spokane, WA, with a translator in Grand Coulee, WA, to provide first public radio service to 3,800 residents of northeastern Washington.

File No. 92302 CRTBN Yakima School District, 104 N. 4th Avenue, Yakima, WA 98902-2698. Signed By: Dr. Larry Petry, Asst. Superintendent. Funds Requested: \$147,394. Total Project Cost: \$196,526. To extend the signal of public radio station KYSC-FM, a student operated public radio station licensed to Yakima School District No. 7, operating on 88.5 MHz, Yakima, WA, by replacing a worn out and obsolete transmission system to better serve residents of the Yakima area. In addition the applicant wishes to replace television production equipment used to produce community access programming for the local cable system.

WI (Wisconsin)

File No. 92014 CTB University of Wisconsin, 821 University Avenue, Madison, WI 53706-. Signed By: Mr. Robert W. Erickson, Dir. Research Admin. Financial. Funds Requested: \$99,000. Total Project Cost: \$198,000. To improve the operation of public television station WHA-TV, Ch. 21, Madison, by replacing aged, worn-out, and unreliable items of basic production equipment, including an audio console and a lighting dimmer control unit, with similar equipment and by replacing an

outmoded film island with still store technology. The station provides public TV services to the entire state of Wisconsin.

File No. 92162 CRB Back Porch Radio Broadcasting Inc., 118 South Bedford Street, Madison, WI 53703-. Signed By: Ms. Sybil Augustine, General Manager. Funds Requested: \$88,441. Total Project Cost: \$117,921. To improve public radio station WORT, 89.9 MHz, Madison, WI, by constructing an STL to replace an expensive telephone link, by replacing a worn-out and obsolete transmitter, and by replacing various items of unreliable and worn-out production equipment, including an audio console, audio tape and cassette recorders, turntables, and CD players.

File No. 92171 PTN Western Wisconsin Tech. College, 304 North Sixth Street, La Crosse, WI 54601-. Signed By: Dr. Lee Rasch, President/District Director. Funds Requested: \$33,668. Total Project Cost: \$67,336. To plan for an interactive, two-way video/audio distance learning network in Juneau County, WI. This network could potentially include the use of technologies such as fiber optics, microwave transmission, and very small aperture terminals (VSATs), and would include in its service area but not be limited to Western Wisconsin Technical College, Juneau County, local school districts, local government, health care facilities, business, industry and residents. The plan will identify existing resources and provide needs assessments to integrate this system with the College's District Plan, as well as state and national/international networks.

File No. 92316 CRTB Wisconsin Educ. Communications Bd, 3319 West Beltline Highway, Madison, WI 53713-4296. Signed By: Mr. Paul M. Norton, Executive Director. Funds Requested: \$805,342. Total Project Cost: \$1,610,684. To improve the broadcast signals of eight public radio and television stations licensed to the Wisconsin Educational Communications Board by replacing worn-out and obsolete transmission facilities and by increasing the power of two of the television stations—WHWC, Ch. 28, Menomonie-Eau Claire, and WLEF, Ch. 36, Park Falls. The increase will bring first public television service to about 13,507 persons, including residents of four Indian reservations. The other stations are WHSA, 89.9 MHz, Brule; WPNE, 89.3 MHz, Green Bay; WHLA, 90.3 MHz, La Crosse; WHBM, 90.3 MHz, Park Falls; and WHRM-TV, Ch. 20, and WHRM-FM, 90.9 MHz, Wausau.

WV (West Virginia)

File No. 92113 CRB WV Broadcasting Authority, 600 Capitol Street, Charleston, WV 25301-. Signed By: Mr. Kenneth A. Jarvis, Executive Director. Funds Requested: \$272,835. Total Project Cost: \$363,780. To extend the service of the West Virginia Broadcasting Authority's 8-station radio network by constructing a new transmitter at Petersburg, WV, and translators at Clarksburg, Elkins, and Logan, WV. The new transmission facilities will bring first public radio service to approximately 52,315 listeners in West Virginia, and additional service to an additional 37,900 listeners in Virginia.

File No. 92116 CTB WV Educ. Broadcasting Authority, 191 Scott Avenue, Morgantown, WV 26507-. Signed By: Mr. Kenneth A. Jarvis, Executive Director. Funds Requested: \$199,964. Total Project Cost: \$399,928. To improve the operations of public television station WNPB-TV, Ch. 24, Morgantown, WV, by replacing obsolete and worn-out studio production and master control equipment, including a video router system; frame synchronizer; vectorscopes; master control; studio control; monitors; and speakers. WNPB-TV serves approximately 718,000 viewers in northern West Virginia and southwestern Maryland.

File No. 92119 CRB WV Educ. Broadcasting Authority, 600 Capitol Street, Charleston, WV 25301-. Signed By: Mr. Kenneth A. Jarvis, Executive Director. Funds Requested: \$32,600. Total Project Cost: \$65,200. To improve the service of public radio station WVNP-FM, 88.5 MHz, Wheeling, WV, by constructing a microwave system so that WVNP can receive its signal more reliably from WVPM-FM, Morgantown, WV. Currently, WVNP-FM operates as a satellite station for WVPM-FM, and receives its signal off-air, making its service extremely sensitive to adverse weather conditions.

File No. 92252 CTB WV Educational Brdcstg Authority, 600 Capitol Street, Charleston, WV 25301-. Signed By: Mr. Kenneth A. Jarvis, Executive Director. Funds Requested: \$401,347. Total Project Cost: \$802,695. To improve the production capabilities of the West Virginia Educational Broadcasting Authority (WVEBA) by replacing worn-out and obsolete videotape recorders at WPBY-TV (Huntington, WV), and to add additional 1/2" Beta videotape recorders, switching and production equipment at WSWP-TV (Beckley, WV). The 3-station WVEBA state network serves over 1.79 million viewers.

File No. 92264 CTB WV Educational Brdcstg Authority, 1615 Third Avenue,

Huntington, WV 25776-7366. Signed By: Mr. Kenneth A. Jarvis, Jr., Executive Director. Funds Requested: \$667,830. Total Project Cost: \$1,335,660. To improve the service of public television station WPBY-TV, Ch. 33, Huntington, WV, by replacing an obsolete 30KW transmitter with a 60KW transmitter that will improve the present signal and increase the coverage area, adding approximately 10,000 new viewers to the station's current viewership of 762,408. This proposal also seeks to replace the feed line and antenna, add stereo pass-through equipment, and add a backup studio-to-transmitter microwave link.

WY (Wyoming)

File No. 92037 CRTB Central Wyoming College, 2660 Peck Avenue, Riverton, WY 82501-. Signed By: Dr. JoAnne McFarland, President. Funds Requested: \$896,475. Total Project Cost: \$1,195,300. To extend the signal of noncommercial TV station KCWC, Channel 4 in Lander/Riverton, WY, by installing microwave interconnection to link the Wyoming public television and radio studios to provide educational programming to schools and the unserved rural residents of Wyoming; to interconnect via M/W a high powered FM transmitter in Rock Springs, WY, to be constructed by KUWR-FM in Laramie, WY, to serve southwestern Wyoming.

File No. 92051 CRB University of Wyoming, P.O. Box 3984, Laramie, WY 82071-. Signed By: Mr. Daniel Baccari, Vice President, Finance. Funds Requested: \$349,684. Total Project Cost: \$466,245. To activate a repeater noncommercial FM station on 90.5 MHz in Rock Springs, WY, providing first signal to Sweetwater County, WY, including the towns of Rock Springs, Green River, Quealy, Reliance, Superior, Granger, Little America and surroundings. This project is tied to the interconnection system proposed by Wyoming Public TV in its grant application for a statewide 2-way interconnection.

AL (Alabama)

File No. 92046 CRB, Old File Nos. 91207, 90279, Alabama Educational TV Commission, Birmingham, AL.

File No. 92142 CRB, Old File Nos. 91184, University of Alabama, Tuscaloosa, AL.

File No. 92200 CRB, Old File Nos. 91129, Alabama State University, Montgomery, AL.

AS (American Samoa)

File No. 92034 CTB, Old File Nos. 91047, American Samoa Government, Pago Pago, AS.

CA (California)

File No. 92028 CTB, Old File Nos. 91044, Valley Public Television, Inc., Fresno, CA.

File No. 92047 CTB, Old File Nos. 91214, 90052, 89229, KTEH Foundation, San Jose, CA.

File No. 92055 CTB, Old File Nos. 91190, KQED, Inc., San Francisco, CA.

File No. 92236 CTB, Old File Nos. 91041, 90236, 89109, Community Television of So. Calif., Los Angeles, CA.

File No. 92294 CTB, Old File Nos. 91263, Rural California Broadcasting Corp., Rohnert Park, CA.

File No. 92306 CTB, Old File Nos. 91111, San Mateo County Cmnty Coll. Dist., San Mateo, CA.

CO (Colorado)

File No. 92059 CTB, Old File Nos. 91138, 90287, Region 10 League for Econ. Asst., Montrose, CO.

File No. 92095 CTB, Old File Nos. 91173, Front Range Educ. Media Corp., Denver, CO.

FL (Florida)

File No. 92001 CRB, Old File Nos. 91022, University of Florida, Gainesville, FL.

File No. 92079 PTN, Old File Nos. 91094, 90121, School Board of Monroe County, Key West, FL.

File No. 92081 CRB, Old File Nos. 91177, School Board of Dade County FL, Miami, FL.

File No. 92157 CRB, Old File Nos. 91266, 90262, 89006, 8016, 7135, University of Central Florida, Orlando, FL.

File No. 92205 CRB, Old File Nos. 91174, 90282, Florida State University, Tallahassee, FL.

GA (Georgia)

File No. 92061 CTB, Old File Nos. 91270, Atlanta Board of Education, Atlanta, GA.

IA (Iowa)

File No. 92041 CTN, Old File Nos. 91079, Iowa Valley Commun. College Dist., Marshalltown, IA.

KS (Kansas)

File No. 92021 CRB, Old File Nos. 91262, 90157, University of Kansas, Lawrence, KS.

LA (Louisiana)

File No. 92187 CRB, Old File Nos. 91257, University of New Orleans, New Orleans, LA.

MI (Michigan)

File No. 92020 CTN, Old File Nos. 91084, PACE Telecommunications Consortium, Indian River, MI.

File No. 92255 CRB, Old File Nos. 91211, 90089, Grand Rapids Cable Access Center, Grand Rapids, MI.

MN (Minnesota)

File No. 92140 CTB, Old File Nos. 91025, 90151, 89265, West Central Minnesota Educ. TV CO, Appleton, MN.

MO (Missouri)

File No. 92019 CRB, Old File Nos. 91229, Northwest Missouri State University, Maryville, MO.

File No. 92042 CTN, Old File Nos. 91165, Missouri Western State College, St. Joseph, MO.

MS (Mississippi)

File No. 92184 CTB, Old File Nos. 91049, University of Mississippi, University, MS.

NC (North Carolina)

File No. 92006 CRB, Old File Nos. 90002, Craven Community College, Craven County, NC.

NE (Nebraska)

File No. 92172 CRB, Old File Nos. 91064, Nebraska Educational T/C Comm., Lincoln, NE.

NJ (New Jersey)

File No. 92027 CRB, Old File Nos. 91033, Burlington County College, Pemberton, NJ.

NV (Nevada)

File No. 92057 CRB, Old File Nos. 91230, Nevada Public Radio Corporation, Las Vegas, NV.

NY (New York)

File No. 92050 CTB, Old File Nos. 91055, WXXI Public Broad. Council, Inc., Rochester, NY.

File No. 92094 CTB, Old File Nos. 91012, 90087, Western NY Public Broad. Assoc., Buffalo, NY.

File No. 92220 CRB, Old File Nos. 91086, Shawangunk Communications, Inc., Otisville, NY.

OH (Ohio)

File No. 92108 CRB, Old File Nos. 91182, Antioch University, Yellow Springs, OH.

File No. 92131 CTB, Old File Nos. 91243, Greater Dayton Public TV, Inc., Dayton, OH.

File No. 92194 CRB, Old File Nos. 91056, Case Western Reserve University, Cleveland, OH.

OR (Oregon)

File No. 92070 CRB, Old File Nos. 91192, Mt. Hood Community College, Gresham, OR.

PA (Pennsylvania)

File No. 92072 CRB, Old File Nos. 91200, WHYY, Inc., Philadelphia, PA.

File No. 92103 CRB, Old File Nos. 91189, Temple University, Philadelphia, PA.

File No. 92299 CRB, Old File Nos. 91277, Lehigh Valley Cmnty Broad. Assoc., Allentown, PA.

PR (Puerto Rico)

File No. 92202 CTB, Old File Nos. 91050, 90083, Puerto Rico Public Broad. Corp., Hato Rey, PR.

RI (Rhode Island)

File No. 92296 CRB, Old File Nos. 91027, IN-SIGHT, Warwick, RI.

TN (Tennessee)

File No. 92045 CTB, Old File Nos. 91220, Upper Cumberland Broadcast Council, Cookeville, TN.

File No. 92324 CTB, Old File Nos. 91034, East Tennessee Public T/C Corp., Knoxville, TN.

VA (Virginia)

File No. 92109 CRB, Old File Nos. 91166, Norfolk State University, Norfolk, VA.

WA (Washington)

File No. 92097 CTB, Old File Nos. 91106, KCTS Television, Seattle, WA.

File No. 92182 CRB, Old File Nos. 91209, Washington State University, Pullman, WA.

Dennis Connors,

Associate Administrator.

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BILLING CODE 3510-60-M

Estimate Report

Thursday
April 30, 1992

Part IV

Department of Agriculture

Farmers Home Administration

7 CFR Part 1900 et al.

**Farmer Program Account Servicing
Policies and Availability of Loan
Servicing Programs for Delinquent Farm
Borrowers Under the "1990 FACT ACT";
Interim Final Rule**

DEPARTMENT OF AGRICULTURE**Farmers Home Administration****7 CFR Parts 1900, 1924, 1951 and 1955****Farmer Program Account Servicing Policies and Availability of Loan Servicing Programs for Delinquent Farm Borrowers for Section 1816 and Other Related Sections for the "1990 FACT ACT"**

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This Interim rule finalizes proposed rules implementing the Food, Agriculture, Conservation, and Trade Act of 1990 hereafter called the FACT ACT. This interim rule primarily amends Farmers Home Administration (FmHA) regulations and notices to delinquent farm borrowers to incorporate many of the changes provided for in the FACT ACT.

DATES: Interim rule effective April 30, 1992. Comments must be received on or before June 29, 1992.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Regulations Analysis and Control Branch, Farmers Home Administration, USDA, room 6348, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: A. Veldon Hall, Director, Loan Servicing and Property Management Division, Farmer Programs, Farmers Home Administration, USDA, room 5449, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone (202) 720-4572.

SUPPLEMENTARY INFORMATION:**Classification:**

This interim rule has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be nonmajor because it will not result in an annual effect on the economy of \$100 million or more.

Programs Affected

These changes affect the following FmHA programs as listed in the catalog of Federal Domestic Assistance:

- 10.404—Emergency Loans
- 10.406—Farm Operating Loans

- 10.407—Farm Ownership Loans
- 10.410—Low Income Housing Loans (Section 502 Rural Housing Loans)
- 10.416—Soil and Water Loans

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR part 3015, subpart V (48 FR 29115) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Emergency Loans, Farm Operating Loans, and Farm Ownership Loans are excluded, with the exception of nonfarm enterprise activity, from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

2. The Soil and Water Loans Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940-J.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Background**Discussion of Interim Rule**

The Agricultural Credit Act of 1987, Public Law 100-233, amended the Consolidated Farm and Rural Development Act (CONACT) to require major changes in the servicing and restructuring of FmHA Farmer Program (FP) borrower's loans. These changes were implemented by an interim rule published in the *Federal Register* on September 14, 1988 (53 FR 35638-35798). The FACT ACT (Pub. L. 101-624), enacted on November 28, 1990, amended certain provisions of the CONACT to close the loopholes and prevent unintended benefits of the Agricultural Credit Act of 1987. The statute also required FmHA to revise its loan servicing notice to describe its debt settlement programs. This interim rule finalizes proposed rules that were published in the *Federal Register* on October 23, 1991, (56 FR 54970-54971) taking into consideration public comments received on the proposed rules. FmHA is publishing this as an interim rule with a 60-day period to allow further comments before publishing a final rule.

Discussion of the Revisions and the Comments Received**General**

In response to the proposed rule, 27 respondents commented in writing. One of these respondent's comments was received after the close of the comment period and was not considered here. A number of the comments mentioned in this respondent's letter were covered by similar comments already received. Many of the respondents' comments were of similar subject matter as addressed in the 31 pages of comments received from the Farmers Legal Action Group, St. Paul, Minnesota. Comments were received from individuals, interest groups, FmHA employees, Chairman of the United States Senate Subcommittee on Agricultural Credit, State Government officials and United States Department of Agriculture officials.

Respondents commented that FmHA should maintain two manuals on servicing FP borrower accounts, one manual for processing applications received before November 28, 1990, and one manual for applications received on or after November 28, 1990. The Agency did consider this alternative, but rejected it. A great deal of the material would be duplicated if FmHA maintained two manuals. It would be necessary to rename and renumber the new regulation. Government regulations will not allow an Agency to have two regulations with the same number. Also, it would have been necessary to change the references in a number of other regulations and it would have substantially increased the cost of publication. We expect that all the applications filed prior to November 28, 1990, will be processed by the time the final rule is published and we will then be able to remove the material that is no longer relevant.

The respondents comments and the revisions are discussed as follows by subpart and section. Administrative changes for typographical corrections, grammar, clarity and other minor revisions will not be discussed here.

PART 1900—GENERAL**Subpart B—Adverse Decisions and Administrative Appeals****Section 1900.53 Adverse Action Procedures**

Respondents commented that the final negotiated appraisals should still be appealable. The Agency did not adopt this comment. The FACT ACT mandated that the average of the two appraisals closest in value "shall

become the final appraisal." This indicates that the negotiated appraisal should not be appealable. The borrower has the option of using the appeals process to dispute the FmHA appraisal only if the borrower and FmHA have not already negotiated a final appraisal. This policy is consistent with the statutory purpose of preventing costly and time-consuming appeals through early negotiation.

Respondents commented that the borrower should be able to select either the FmHA appraisal or the borrower's independent appraisal if the difference in value between the two appraisals is five percent or less. The Agency agrees and adopted this comment in this section. Previously, the appeal officer was required to select the FmHA appraisal in such a case. If the borrower has selected the appraisal to be used because the value difference between the two appraisals was less than five percent, however, the borrower will not be able to negotiate or appeal such an appraisal. These changes are consistent with the negotiation policy in § 1951.909(i)(4) of subpart S of part 1951 of this chapter.

Respondents also commented that the appraisal should be negotiated prior to mediation or any appeal. The Agency agrees and has further clarified this section to state that after negotiation, the borrower will have the opportunity to appeal other non-appraisal issues. This is consistent with changes being made to § 1951.909(i) of subpart S of part 1951 of this chapter.

Section 1900.55 Appealable and Nonappealable Decisions

Respondents commented that an applicant should be able to appeal if he/she was dropped from priority groups for the purchase of inventory farms for the random selection. The Agency agrees and has adopted this comment in this section and in § 1900.57 (hearing rules).

Section 1900.56 Appeal Requests

Respondents commented that borrowers should be able to obtain a copy of the FmHA appraisal. The Agency agrees and has adopted this comment. Previously, the borrower could obtain copies of file material including the appraisal; however, this now has been stated specifically in this section.

Section 1900.59 Effect of Appeal Decision

Respondents commented that the "reasonable period" to implement an appeal decision was an inadequate timeframe and that a more specific

timeframe should be established. The Agency agrees and has modified this section to require an appeal decision reversing an adverse decision to be implemented within 60 days of receiving the final appeal decision. This section also has been clarified to state that "implementation" of an appeal decision means to take the next step in loan processing or loan servicing, as applicable, under FmHA regulations. Based on FmHA's experience in implementing these appeal decisions, the Agency is of the opinion that 60 days is a reasonable period of time. The Agency adopted this comment.

Respondents commented that borrowers should be informed of the requirements of an FmHA appraisal as they may disagree and want to appeal the appraisal. The Agency is of the opinion that if the borrower wants to know about the requirements of an FmHA appraisal, the borrower can request a copy of the FmHA regulations for appraisals. The borrower is informed of this in exhibits E and F of subpart S of part 1951 of this chapter. Therefore, the Agency did not adopt this comment.

The Agency has decided not to adopt proposed changes to exhibit B-2 concerning the negotiation of FmHA appraisals. It was determined that this letter is used for notifying all applicants, lenders, holders and borrowers of unfavorable decisions reached at the meeting prior to appeal and is not specifically designed for Farmer Programs borrowers contesting appraisals. Therefore, the exhibit is an inappropriate notice in which to discuss these borrowers' right to negotiate appraisals. Furthermore, at the point of sending this exhibit, delinquent borrowers would have already received exhibit E or F and/or attachments 5 and 6 to exhibit A of 1951-S, all of which notify the borrower of the right to negotiate the appraisal. Coverage of the issue in exhibit B-2, thus, is unnecessary.

PART 1924—CONSTRUCTION AND REPAIR

Subpart B—Management Advice to Individual Borrowers and Applicants

Section 1924.59 Supervision and Section 1924.60 Analysis

FmHA has made an administrative decision to improve borrower supervision in order to better protect the Government's security interests and to increase the chance of borrower success. These sections, therefore, have been amended to emphasize and clarify borrower supervision procedures

without making substantive changes. Specifically, § 1924.59 has been revised to expand the purposes of supervision to include increasing the likelihood of borrower success and eventual graduation to conventional credit by assisting borrowers to recover from financial difficulty and obtain farm and financial management skills. That section also clearly sets out the responsibilities of FmHA personnel and the borrower in the supervisory process so as to establish as a rule present field practice. The borrower responsibilities listed are those found in existing FmHA regulations and loan documents. Emphasis is placed on awareness of the operation, analysis and planning, early detection of problems, and counseling as to resolution of problems. FmHA cannot guarantee borrower success.

Section 1924.60 has been revised to clarify and expand the purposes of analyses and the factors considered during analyses. As part of the Agency's policy to emphasize borrower supervision, it intends to improve the timeliness in delivering releases of normal income security for essential family living and farm operating expenses and additional funds to eligible borrowers when available. Regular and thorough analyses will help meet this goal. FmHA has added more specificity to its list of County Supervisor's responsibilities in this section by stating that borrower records will be reviewed at least quarterly to maintain awareness of the borrower's operation. In addition, annual analyses will be conducted within the 90-day period before the end of the period covered by the Farm and Home Plan. This should permit planning and timely delivery of any additional releases or funding needed by eligible borrowers for the next production/marketing cycle. This section has been revised further to add the requirement that annual analyses be conducted for those borrowers on which a loanmaking or subordination decision was made during the previous production/marketing cycle. The Agency believes that such analyses are needed to track and evaluate the borrower's use of new funds obtained from FmHA or other sources in the operation. Finally, FmHA has added subsection (e) to this section to provide examples of borrower situations with recommending courses of action based on the outcome of the annual analysis. Loan servicing, releases of normal income security, and additional funding options are covered.

PART 1951—SERVICING AND COLLECTIONS

Subpart S—Farmer Programs Account Servicing Policies

Section 1951.901 Purpose

Respondents commented that unauthorized assistance should be defined and that not all cases of unauthorized assistance should be classified as such. It is the Agency's opinion that unauthorized assistance is fully explained in the regulations for unauthorized assistance in subpart L of part 1951 of this chapter and that there is enough latitude in the regulation to handle cases that might create a hardship on the borrower.

It was also recommended that the field staff be provided with copies of the *Federal Register* so they would have the prefatory remarks. The Agency did not adopt this comment as the regulations are the procedures that must be followed and not the prefatory remarks. An attempt instead has been made to further clarify regulatory language to clearly reflect Agency policy.

It was also recommended that the summary and remarks contained in the previously issued regulations for this section be restored as it was very helpful. We adopted this recommendation with some modification.

Section 1951.902 Policy

Respondents commented that the summary and phases covered in this section should be restored from the previous regulations as it was very helpful. This is adopted with some modifications.

Comments were also made that the policy expressed in this section went beyond the authority granted under the FACT ACT. This section was not correctly titled as its purpose was to give a description and broad summary of the procedural and substantive rules that are discussed in the later sections of this subpart. Due to the broad general statements used to illustrate this, there has been a lot of confusion on this section when it was used as an expression of the procedures to follow rather than policy. This created conflicts with sections that followed where the procedures were concise and specific. Therefore, we have retitled this section as "General" so that it more clearly describes the intent of this section.

Section 1951.903 Authorities and Responsibilities

No comments were received specifically on this section. However, respondents did comment that a

borrower should not be disqualified for servicing because a former spouse that is still liable for the debt is unwilling to sign or did not sign an application. Therefore, the Agency added to the section the authority to allow the State Director to release a borrower from liability on the debt. The guidelines for use of this authority in the case of a divorced spouse so that spouse will not have to participate in the request for Primary and Preservation Loan Service Programs is covered under § 1951.909(a).

Section 1951.906 Definitions

A number of respondents commented on a variety of definitions as follows:

Borrower. One respondent commented that the guarantor should not have to be involved in the restructuring process. The Agency disagrees as the guarantor is liable for the debt and must be aware of what is involved in the restructure process and informed of the available options before collection action can be taken against the guarantor.

Respondents also commented that collection-only borrowers should not be included in the definition. The Agency disagrees as we are required by statute to notify borrowers before collection action is taken.

Child/Owner/Previous operator. These definitions were removed as they are further explained in § 1951.911(a) of this subpart, and therefore, are not needed here.

Feasible plan. Several respondents objected to the use of income tax records for farm and home planning for developing a feasible plan as follows: The respondents commented that five years' records were excessive and only reflect income and expenses. Too much emphasis was placed on the use of income tax records. Income tax records do not provide production information. Income tax records are not always readily available for the most recent year within the timeframes required by FmHA. The proposed rule did not discuss what happens in cases where borrowers have been farming for less than five years. The proposed rule did not indicate how the income tax records would be used.

The five-year history for production and financial information is required by FmHA and FmHA allows adjustments for natural disasters. Also, actual loss Emergency loans are based on a five-year production history. Therefore, the Agency is requiring that projections of future production be based on a computed five-year average. The Agency has also added that for farmers that have been farming for less than five years, additional records along with the

actual records will be used as described in subpart B of part 1924 of this chapter for computing the five years' average. Income tax returns along with supporting documents will be used to verify actual records.

It is the Agency's opinion that verifying financial information through tax records is the most reliable basis to predict the future operation of the business. The proposed rule indicated that the Agency would not retain a copy of the income tax records. However, upon a further review of the issue, it has been decided that Agency will retain a copy of the tax records. This is necessary as this evidence will be needed to support an unfavorable decision on a feasible plan when the decision is challenged in the appeal of such a decision. The documents will be stamped "confidential information" to avoid unauthorized release of the documents.

Respondents also commented that the requirement of 105 percent, but not less than 100 percent of the scheduled payment for debts was not clearly stated and was confusing. The Agency has added language to clarify this subject. The revised definition states that FmHA will assume that borrowers need up to 105 percent of the scheduled payments on all debts for the period of the plan to meet their obligations. However, servicing will not be denied if the 105 percent margin is not obtained provided projected income is 100 percent of scheduled payments.

Also, it was recommended that the definition should be expanded to consider the living expenses of family members who do not reside in the same household. The Agency disagrees. Family members that are college students, members who are temporarily away from home for medical or health reasons, usually maintain that their permanent residence is their family's home and so their living expenses would be considered under this definition.

Also, the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, Public Law 102-237, enacted on December 13, 1991, allows a borrower to exclude the lowest crop yield for the period if the farm's actual production was affected by disasters in at least 2 of the years for the period. This provision is added to the proposed rule definition.

Financially distressed. Respondents commented that borrowers that were not at least 180 days delinquent were not being properly informed of the primary loan service program. Consequently, these borrowers could be making decisions without sufficient

information which could be detrimental to the borrower's operation when they lacked money for payments due in the current and/or next production/marketing cycle. To rectify this situation, the Agency has added a new § 1951.908 to this subpart to require the notification of borrowers that are not yet delinquent but are financial distressed and provide for the servicing of such borrowers. Therefore, it was necessary to add a definition for a borrower who is financially distressed.

Good Faith. Respondents commented that the words "that the borrower has demonstrated sincerity and honesty" should be incorporated into the definition. The Agency adopted this comment.

Respondents also commented that there should be some flexibility in the definition to allow for honest mistakes and that denial of rights should be based on obvious documented attempts to act in bad faith. The Agency has adopted this comment by adding that a lack of good faith must be based on violations within the borrower's control. FmHA will presume that such actions indicate the borrower's intent to violate written agreements with FmHA. Such action should be documented to address this comment. The Agency also has added a reference to § 1962.18 of subpart A of part 1962 of this chapter for processing unauthorized disposition of chattel security. This provision requires FmHA to notify the borrower of the unapproved disposition and consider post-approval of the disposition in certain cases.

Leaseback/Buyback property. A respondent commented that the definition should be clarified to spell out who is eligible for leaseback/buyback property and homestead protection rights. The Agency disagrees with this comment as it is clearly spelled out in § 1951.911 of the regulations and does not need to be repeated here.

Nonessential assets. A respondent commented that the reference to § 1962.17 should explain that this is for guidance for essential family living and farm operating expenses and not nonessential assets. Since nonessential assets are not discussed in § 1962.17 and the reference is contained in the parenthetical reference to essential expenses, the Agency has not adopted this comment.

A respondent commented that assets that the borrower cannot access through liquidation or by obtaining a loan should be excluded. The Agency did not adopt this comment as the statute requires the Agency to use the liquidation or loan value of nonessential assets and does not provide for exclusions of such

assets. However, the Agency does not force the borrower to sell or borrow against such assets. Instead, FmHA will simply include the value of these nonessential assets in the net recovery as authorized by statute if the borrower does not pay FmHA their value.

Writedown. Several respondents commented the conservation set-aside easement should not be included in writedown for purposes of the \$300,000 limit. The Agency agrees and has removed it.

Section 1951.907 Notice of Loan Service Programs

Several respondents commented on a variety of issues in this section as follows:

Do not send an application for debt settlement with the initial notice as most borrowers are interested in applying for primary loan servicing prior to being considered for debt settlement. The Agency did not adopt this comment. Although borrowers do not have to apply for debt settlement with the initial notice, by statute FmHA must notify borrowers of the debt settlement option in its general loan servicing notice contained in attachment 1 of exhibit A of this subpart. The notice and the regulations make clear that a borrower can apply for debt settlement at several points in time in accordance with subpart B of part 1956 of this chapter. However, to assist borrowers who may have neglected to apply for debt settlement at the beginning of the 1951-S process, FmHA has modified attachment 5-A of exhibit A of this subpart, which is sent to borrowers when FmHA rejects their request for primary loan servicing. The modification explains that FmHA will process any debt settlement request when it processes the preservation loan servicing request. It reminds borrowers that they can now apply for debt settlement and instructs them how to apply.

Do not require an ASCS map of the farm property for homestead protection rights with the initial complete application as most borrowers will never get to this consideration for homestead protection since primary loan servicing or buyout often resolves the situation. The Agency adopted the comment and removed this requirement. Borrowers can submit an ASCS map at a later time if they apply for homestead protection or the conservation easement program.

A number of respondents' comments objected to removing the "rule of reason" for submitting a complete application. The statute does not provide for the rule of reason but did extend the timeframe for submitting a

request. The extended timeframe (from 45 to 60 days) is sufficient time to submit a complete application. Furthermore, the Agency has added provisions for notifying and servicing borrowers who are not delinquent but are having financial difficulties and borrowers who are 30 days or more past due in making their FmHA installments. In view of these actions, borrowers will have several opportunities to apply for the primary, preservation loan service and debt settlement programs. The Agency did not adopt these comments.

Respondents made the following comments concerning servicing borrowers 30 days delinquent. The County Supervisor's meeting with borrowers that were 30 days delinquent would not provide for an accurate run of DALRS as there would not be a completed plan, appraisal information or historical data available for this meeting. The borrower also would not have sufficient time to prepare the necessary information. Such an initial screening might result in an invalid decision by the County Supervisor based on incomplete data. FmHA, by statute is required to provide the primary, preservation loan service and debt settlement program notice when the borrower is 180 days delinquent.

Other respondents, however, stated that borrowers who are less than 180 days delinquent were being neglected and should be notified of the available servicing options and be able to request servicing rather than having to wait until 180 days delinquent before they are notified of servicing options.

The Agency has revised this section in response to these comments. While section 331D(a) of the Consolidated Farm and Rural Development Act (CONACT) states that the loan servicing notice will be sent to borrowers who are at least 180 days delinquent, section 331D(d) also requires the issuance of the notice upon borrowers' written requests and before the earliest of "any other collection action." The Agency believes it has the discretion to issue the servicing notice at the 30-day point because existing regulations define these borrowers as delinquent. Thus, if these borrowers were to make a written request for servicing they would be subject to collection action following FmHA's providing them with mandatory notice of their servicing options and FmHA's subsequent consideration and rejection of these options. However, these borrowers may not know to request these servicing options, unless they are informed of them. The Agency, therefore, believes that it is consistent with statutory intent to formally notify

borrowers of their loan servicing options when they are 30 days delinquent.

The legislative history of the statute supports this change in policy. It indicates that Congress was dissatisfied with FmHA's past practice of providing notice when borrowers were at least one year delinquent in the payment of their loan accounts. Congress believed that these notices were too late in time to help borrowers and in fact increased borrowers' financial problems leading to a need for principal and interest writeoffs. See S. Rep. 100-233 at 38, 100th Congress, 1st Session. Congress further amended the debt writedown provisions of section 353 of the CONACT in the FACT ACT to limit writedowns and writeoffs (through net recovery buyouts) to \$300,000 and to state that borrowers can only receive one writedown or buyout on applications submitted on or after November 28, 1990. Therefore, in light of these limitations, it is to the borrower's advantage for the Agency to provide notice to borrowers as soon as they become delinquent. These early notices will enable a number of borrowers to obtain assistance before their financial position has deteriorated to the degree that they are ineligible for the limited writedown and buyout now required by statute.

While early resolution of the delinquency is desired, the revisions to the proposed rule do not require borrowers to apply for loan servicing when they are 30 days delinquent. Borrowers retain their option of receiving the 180-day notice if they do not apply for servicing when they are 30 days delinquent. The servicing notices and regulations clearly inform borrowers that they will not be renotified at 180 days if they apply for servicing at 30 days, but that they will be notified at 180 days if they do not apply. The Agency believes that this "borrower option procedure" complies with the requirement of sections 331D(a) and (d) of the statute.

The revisions will also have additional benefits for both the borrowers and the Government. Under the old notice procedures, County Supervisors had to contact borrowers twice, once at 30 days, and then again at 180 days if the delinquency was not resolved. However, because the regulations were not clear on exactly what servicing options applied to borrowers who were 30 days delinquent, early servicing was not always accomplished despite the requirement that the borrower be contacted informally and a meeting be scheduled. This imposed a burden on borrowers to

provide financial information without providing clear guidance to FmHA personnel on how to process the request. These revisions, along with the new § 1951.908, which provides limited servicing to borrowers current in their payments but in financial distress, streamline the servicing process in cases where borrowers submit applications when they are 30 days delinquent. Delinquencies can be corrected at the early stage thus saving both borrowers and FmHA valuable time which would otherwise be spent processing now seriously delinquent borrowers through the lengthy 1951-S process. While these revisions will not enable all borrowers to continue their operations, the Agency believes that thorough servicing when borrowers are 30 days delinquent will improve most borrowers' chances of success in their farming operation. In response to a comment, the Agency has clarified this section to state that borrowers may apply for preservation loan servicing even if they are in nonmonetary default. The Agency's revisions to this section will clarify the notification process.

The Agency has added in this section and in § 1951.909 that in those instances where the applicable notice is sent certified mail and the certified mail is not accepted by the borrower, the County Supervisor will immediately send the documents from the certified mail package to the borrower's last known address, first class mail. The appropriate response time will commence 3 days following the date of first class mailing. This is added to address the situation where borrowers refuse to accept certified mail and thereby are not informed of the Primary and Preservation Loan Service and Debt Settlement Programs. The Agency previously adopted this administrative policy through the issuance of an Administrative Notice.

The Agency also has revised this section to state that it will include with the forms sent to the borrower a copy of the commodity prices used by FmHA for developing the plan of operation for the farm. The County Supervisor will assist the borrower in the use of these prices and computing the plan. The County Supervisor will also advise the borrower of any additional information that is needed. However, the borrower who has proven accurate records to support a premium price for a commodity will be allowed to use the higher price.

Section 1951.908 Servicing Financially Distressed Current Borrowers

Respondents commented that this subpart did not provide adequate procedures for notifying borrowers that

were not yet late on making their payments but were having financial difficulties and would probably not be able to continue their operations without some debt restructuring. Therefore, the Agency has added this new section to provide specific procedures to ensure that such borrowers will be informed of the servicing options available and information on applying for these servicing options. Emphasis is added that FmHA will assist, advise, and work with these borrowers in an attempt to resolve the financial problem. This will include consideration for rescheduling, reamortizing, deferrals and reduction of interest rates. Release of normal income for essential family living and operating expenses will be considered in accordance with § 1962.17 of subpart B of part 1962 of this chapter.

Previously, FP borrowers could apply for Primary Loan Service Programs at any time. This new section does not provide for any additional rights or obligations for the borrower. It mainly spells out a clear procedure for notifying and servicing borrowers that are financial distressed but not yet delinquent. The Agency believes that early notification of these servicing programs will help keep the borrower in business, avoid Government losses and reduce delinquencies. However, if the borrower later becomes 30 days delinquent the borrower will be renotified and may apply at that time. The borrower also will have the opportunity to apply for servicing when 180 days delinquent if the borrower does not apply when 30 days delinquent.

Section 1951.909 Processing Primary Loan Service Programs Requests

Almost all of the respondents had comments on many different items in this section. The comments will be discussed by subject matter.

Paragraph 1951.909(a)—Respondents commented that DALR\$ should be published for public comments. This is discussed below under exhibit J-1 of this subpart.

Respondents commented that a borrower should not be disqualified for servicing because a former spouse that is still liable for the debt is unwilling to or did not sign an application. Therefore, the Agency added the authority in § 1951.903 to allow the State Director to release a borrower from liability on the debt. The guidelines are for the use of this authority in the case of a divorced spouse are set out in § 1951.909(a). If the spouse is so released from liability, that spouse will not have to participate in the request for Primary and Preservation

Loan Service Programs. An adverse decision is appealable.

Paragraph 1951.909(b)—Respondents commented that borrowers should not have to apply for debt settlement at the same time as they apply for primary loan servicing. See discussion above under § 1951.907.

Respondents commented that negotiated appraisals should still be appealable. The Agency disagrees. See the discussion of this under § 1900.53 above.

Paragraph 1951.909(c)—Respondents commented that good faith is now an eligibility requirement and it should be more clearly defined. The Agency agrees. See discussion under the definition for "good faith" under § 1951.906 above.

Respondents commented that the limitation of one writedown and one buyout and the \$300,000 lifetime limit for loans made after January 6, 1988, was very confusing. The Agency has clarified these provisions under paragraph (e)(4) for writedown and (h)(4) for net recovery buyout. The distinction between loans made on or before January 6, 1988, and those made after that date has been removed. Although this date appears in the FACT ACT, the additional statutory provisions discussed below render the date meaningless and unnecessarily confusing. Section 353(n) of the Consolidated Farm and Rural Development Act states a "Special Rule" which provides that loans made on or before January 6, 1988, which have been written down will be treated as loans made on or after January 6, 1988. In turn, the language in section 353(n)(1) states that only one writedown or net recovery buyout shall be provided per borrower on all loans made after January 6, 1988. Section 1861 of the FACT ACT, however, states that the statutory limits only apply to new applications which are those submitted on or after November 28, 1990. Thus, the Agency has revised the regulations to state that any writedown based on an application received before November 28, 1990 (the date the FACT ACT was enacted), will not be counted toward the borrower's one-time limit regardless of the date of the original loan. If a borrower received a net recovery buyout based on a pre-FACT ACT application, then such accounts would have been terminated in accordance with the statutory requirement and not subject to further servicing under 1951-S (other than for servicing of any net recovery buyout agreement which is serviced as a nonprogram loan).

The Agency has also added an example to explain how the \$300,000

limit is subject to the one-time limit for writedown or buyout. If a borrower receives a writedown of less than \$300,000 on a new application in a nonbankruptcy situation, the borrower still would not be eligible for any writedown or buyout thereafter.

Respondents commented that all appeals should be concluded before acceleration. The Agency agrees that all appeals of primary and preservation loan servicing requests made within the required 60-day time period must be concluded before acceleration. However, appeals of debt settlement denials and requests for preservation loan servicing will not delay acceleration and foreclosure when no application for primary loan servicing has been timely filed. Since the preservation and debt settlement programs require that FmHA either own the property or that the borrower liquidate the property and pay its market value to FmHA, FmHA is not required to delay the liquidation process. FmHA can still process any debt settlement request independent of the liquidation process. For preservation loan servicing, if FmHA takes the property into its inventory, the borrowers who previously owned the property will be notified that they can apply for preservation loan servicing. If they timely apply after FmHA's acquisition of the property and their application is rejected, they can appeal the adverse decision before the property is sold out of FmHA's inventory. These procedures satisfy the statutory requirements.

Respondents commented that borrowers with new applications were still entitled to consideration for rescheduling, reamortization, deferrals and reduction in interest rates even after they had received a writedown, or the \$300,000 limit on writedown. The Agency agrees and has adopted this.

Respondents commented that the \$300,000 limitation did not include bankruptcy or debt settlement. The Agency agrees and has clarified this issue.

Paragraph 1951.909(e)—Respondents commented that Attachments 5-A and 6-A should provide the opportunity to apply for the preservation loan service program. The Agency disagrees since the borrower already applied for this program when attachment 2 of exhibit A was submitted. The Borrower will automatically be considered for this program.

Respondents commented that FmHA should include the payment of prior and junior liens as protective advances and reschedule or reamortize loans to include such payments. The Agency

disagrees. Except for real estate taxes, § 1965.11(b) of subpart A of part 1965 of this chapter only authorizes the payment of prior and/or junior liens prior to liquidation to protect the Government's interest during the liquidation process. Before this event occurs, the borrower is notified by attachments 1, 3, and 4 of exhibit A of the nonmonetary default of the available servicing options. Often the FmHA debt can be restructured and agreements made with the other creditors that will allow the borrower to continue to farm. Normally, when FmHA is forced to pay a prior and/or junior lienholder to protect its security interest, liquidation is the only fiscally sound course of action left.

Paragraph 1951.909(f)—Respondents commented that a borrower's supervised bank account should not be included in the net recovery value. The Agency disagrees. The Deposit Agreement, Form FmHA 402-1, gives the Government a security interest in the account and the deposits. Therefore, the deposits in the account can be included in the net recovery value.

Respondents commented that collateral not in possession of the borrower that was normal income security which could have been post-approved for release for essential family living and farm operating expenses should not be included in the net recovery value or counted as lack of good faith. The Agency agrees and has revised the regulations to provide for this.

The Agency has added "the months suitable property is under lease will not be included in determining the average holding period for calculating the net recovery value (NRV) of property." This change was made by statute under the Preservation Loan Service Program because a borrower has the option to purchase the property during the term of the lease. This prevents FmHA from advertising the property for sale. In many cases, the borrower buys the property during the lease. Also, the property is providing rental income to the Government which normally the Government does not have. Since such property is excluded from sale during the period of the lease, the Agency has excluded the holding period while under lease from the calculations for NRV.

Respondents commented that FmHA cannot require a borrower to pay FmHA the net recovery value of the nonessential assets. FmHA agrees and has clarified this section and § 1951.910 on this issue. It was not FmHA's intent that such an interpretation would be made. The borrower is only offered the option of paying FmHA the net recovery

value of the nonessential assets to reduce the debt and to avoid inclusion of this value when evaluating the account for restructuring.

Paragraph 1951.909(h)—Respondents commented that a borrower should be allowed to appeal an offer for debt restructuring if it appears that improper calculations may have been made. The Agency agrees and has revised § 1951.909(h)(1)(i) to adopt this comment.

Paragraph 1951.909(i)—Respondents commented that the borrower should be allowed to select an appraiser from other than the FmHA list as long as the appraiser meets FmHA qualification for a negotiated appraisal. The Agency agrees and has clarified the regulations on this issue.

Respondents commented that FmHA should not require that the appraiser be certified in accordance with the Financial Institutional Reform, Recovery and Enforcement Act (FIRREA) because this would restrict the number of available appraisers. Many appraisers at this time do not meet the qualifications for FIRREA. FmHA believes that there will be an adequate number of State certified/licensed appraisers available to meet the needs. Approximately, one-half of the States have implemented the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) by requiring the use of State certified/licensed appraisers on January 1, 1992. Most of the other States have adopted voluntary State certification/licensing requirements which will not implement the certification/licensing requirement until December 31, 1992. FmHA staff appraisers (in house) will not be required to be certified, however, they will need equivalent education to a State certified general appraiser by January 1, 1995. All FmHA contract real property appraisers are to meet the FIRREA licensing/certification requirements when implemented by the State in which the real property is located. The only exception permitted will be for real property appraisals made by Farm Credit System (FCS) institutions for Farmer Program guaranteed loans. FIRREA requires that after December 31, 1992, all voluntary States must use State certified general appraisers. The respondents were under the impression, in error, that appraisals completed under FIRREA would not include the use of the capitalization value of the property. However, all Farmer Program appraisals will continue to include the capitalization value since FmHA's appraisal regulations of 7 CFR 1809.4 require this element.

Respondents commented that substantial debt should be defined for use in determining whether or not a voluntary meeting of creditors should be requested. Also, the borrowers should have appeal rights as to the availability of the meeting of creditors. In response to these comments, the Agency has defined "substantial debt" as the amount of debt held by undersecured creditors which if reduced to zero, would result in the borrower's development of a feasible plan. Borrowers also are offered appeal rights following mediation/voluntary meeting of creditors. Attachments 5-A and 6-A of exhibit A are sent to the borrower and advise of appeal rights. Any appeal at this stage could cover whether a meeting of creditors should have been offered.

The Agency has added that the County Supervisor will process a noncash credit to the borrower's account for interest that accrues during the appeal process if the borrower wins the appeal and if that accrued interest would cause the FmHA debt to exceed the statutory limit of \$300,000 for the borrower. This is so the borrower will not be denied servicing based on an erroneous FmHA decision which is corrected on appeal.

The Agency requested comments in the preamble of the proposed rule on allowing the borrower to select either the FmHA appraisal or the borrower's appraisal if they were within a particular percentage of the value of the FmHA appraisal. If the borrower did not want to do this, the borrower could request to continue with the negotiated appraisal process. Many favorable comments were received on this issue. The percentage range was from five to twenty percent. The Agency selected the five percent range and has added this option into the interim rule. The Agency selected the five percent range because under existing regulations, the hearing officer has to select the FmHA appraisal if the range between the independent appraisal and the FmHA appraisal is five percent or less. To make this regulation and the FmHA 1900-B regulations for appeals consistent as to the degree of difference in appraisal values, the Agency adopted the five percent range in this section.

Section 1951.910 Consideration of Borrower's Other Assets for New Applications

Some of the comments concerning this issue have already been addressed above in § 1951.909 of the preamble. Respondents also commented that the net recovery value of nonessential assets may not be the same as the loan

value and lenders should be contacted to see what they would loan on such collateral. The Agency disagrees with this comment. What a lender will loan on certain collateral varies widely. It depends on the financial position of the borrower, the type of collateral offered, the availability of additional collateral, the repayment record of the borrower, etc. Also, it greatly depends on the needs of the lender. The needs of the lender involve a great many things and changes from day to day. Consequently, the Agency is of the opinion that this method of determining loan value of the nonessential assets would be very difficult if not impossible to do on any fair and standardized basis. The Agency, therefore, adopts the proposed rule's approach to this issue for the reasons stated at 56 FR 54975.

Respondents commented that the Agency should consider the holding period in the calculation of the net recovery value of the unencumbered nonessential assets. The Agency disagrees. The Agency does not anticipate taking such property into inventory so consideration of a holding period would unreasonably inflate FmHA's estimate of its liquidation costs.

Respondents commented again on taking a lien on all assets. In addition to the comments addressed above, the Agency believes that it is necessary to take a lien on certain assets including the unencumbered nonessential assets to protect the Government's interest. The Agency continues to release normal income security for essential family living and farm operating expenses to borrowers until acceleration. Meanwhile, the borrowers often go delinquent on payments on FmHA loans, and interest continues to accrue which increases the debt. This could cause loans to quickly become undersecured. Undersecured loans result in heavy Government losses with writedowns and writeoffs for debt restructuring, buyouts, liquidation and debt settlement. However, the Agency now will require a lien on certain other assets in which the borrower has an ownership interest. This policy is consistent with that proposed for Farmer Programs loanmaking as announced in 56 FR 6315 and is needed for the same reasons discussed in that proposed rule. For instance, a General Accounting Office (GAO) report submitted to the Honorable Jesse Helms, U.S. Congress in February 1989 addressed FmHA's loanmaking policies and practices. One of the concerns noted in the report was FmHA's eroding security position on many loans and the tremendous losses the Agency projected

because of this. One of GAO's recommendations addressed the need for a change in FmHA's collateral requirements. The report recommended additional security be taken when servicing loans, including the option of obtaining the best security interest available on all of the borrower's assets.

Requiring a lien on certain borrower assets will not adversely affect the borrower's farming operation. FmHA has revised this section to refer to FmHA's loanmaking regulations for taking a lien on certain assets. The loanmaking regulations provide that FmHA will not take a lien on the following property: subsistence livestock, cash or special cash collateral accounts used for necessary farm operating or family living, retirement accounts, personal vehicles, household goods, and small tools or equipment not needed for security purposes. A lien also will not be taken on property that could have significant environmental problems/costs. It is FmHA's intent to adopt these exceptions for loan servicing under this section.

FmHA's decision to take a lien on certain assets as a condition for loan servicing is allowed by law. Section 307 of the CONACT only prohibits the Agency from requiring any borrower that is current on payments to provide additional collateral for security.

Section 1951.911 Preservation Loan Service Programs

(a) Leaseback/Buyback

Respondents commented that unless previous regulations required notices for leaseback/buyback for property acquired prior to January 6, 1988, the owner or operator should be noticed. The Regulation for 7 CFR part 1955 subpart C paragraph 1955.109 published in the Federal Register on April 21, 1986 (51 FR 13479) provided for such a notice. In addition, in accordance with the FACT ACT, FmHA issued an unnumbered letter to its field personnel dated November 30, 1990, entitled "Buyback Rights for Farmer Programs Inventory Property Acquired Prior to January 6, 1988," which provided additional notice and buyback rights for certain lessees of farm inventory property which we acquired prior to January 6, 1988. The Agency is of the opinion that sufficient notice has been provided. Therefore, the Agency has not adopted this comment.

Respondents commented that the good faith requirement for preservation loan servicing was different from primary servicing. The Agency agrees and has corrected this by referencing the primary loan servicing definition in

the leaseback/buyback section of the regulations.

Respondents commented that the FACT ACT did not require the spouse or child to be actively engaged in farming prior to FmHA's acquisition of the property. The Agency agrees and has made the revision to require that they be engaged in farming at the time of application for leaseback/buyback.

Respondents commented that the previous owner or operator should be able to buy or lease part of the property instead of the whole property. The Agency did not include this in the interim rule but would like to solicit comments on this issue such as:

(a) What requirements are needed for subdividing the property?

(b) Who should decide the size and shape of the parcels?

(c) Should the party be able to buy only road frontage for building lots?

(d) Should the party be able to exclude wetlands, wasteland, etc.?

(e) If fencing, roads or other improvements are needed, who will pay for such cost?

(f) Who should pay for the surveying and legal costs for subdividing?

(g) Should only the previous owner have the right to buy or lease a part of the property and in such a case should this terminate other parties' preservation loan service program rights or should the remaining property be offered to other parties in priority order?

(h) When should the party be required to make a decision on what portion of the property the party wants to buy? Should the decision be made at the time a lease is entered into or later when the option to buy is executed?

The Agency believes that this comment has merit and will give further consideration to implementing this comment based on the comments received on this issue.

Respondents commented that the previous owner/borrower and the spouse or child or the entity members should have perpetual priority rights for leaseback/buyback of the inventory farm property. The owner and other members have up to 190 days priority for leaseback/buyback after FmHA acquires the property. This is sufficient time for them to exercise their rights. They will also have the opportunity along with other parties to buy the property when it is advertised for sale. The Agency did not adopt this comment.

Respondents commented that this section should clarify that the borrower is always allowed to voluntarily convey the property to FmHA. The various exhibits and attachments to the primary and preservation servicing notices offer the option to convey the property and

the borrower is sufficiently notified of this opportunity. The Agency does not adopt this comment.

Respondents commented that borrowers should have the right to appeal decisions related to cancelling a lease under the preservation loan service programs. The Agency has clarified this issue by adding to this section guidelines in terminating the lease and providing appeal rights. The Agency has also clarified that borrowers who have only chattel security do not have any preservation rights. However, the Agency will allow a previous owner that has both chattel and real estate security that was taken into inventory and leases or buys the real estate back to have the first priority to buy the chattels back.

Respondents commented that environmental issues should be discussed in this subpart. The Agency disagrees. Environmental issues are covered in subpart C of part 1940 of this chapter. If property values are affected by environmental issues, their values will be included in the appraisal report on the property. The Agency does not adopt this comment.

A respondent commented that the lease term for leaseback/buyback property should be revised to allow an annual lease that can be renewed up to 5 years. Present regulations provide that the initial lease term may be 1 to 5 years, as selected by the applicant and the lease does not provide for an annual renewal process. The Agency did not adopt this comment because we have determined that it's in the lessor's best interest to have a long-term lease of up to 5 years so the farmer can plan crop rotations, fertilizer and weed control practices and etc.

A respondent commented that the Agency has no statutory authority to only finance up to \$200,000 for inventory real estate for an eligible borrower. The Agency disagrees. This limit is for the farm ownership loan program and is set by statute. Eligible borrowers are considered for farm ownership loans for the purchase of inventory farms. However, if the purchase price exceeds \$200,000, they may seek a guaranteed farm ownership loan that has a limit of \$300,000 or they may request an FmHA loan at ineligible rates and terms. The respondent also suggested that the Agency increase the term from 25 years to 30 years for ineligible rates and terms. The Agency does not agree with this comment as it believes the 25-year term is adequate and is required by law to have less favorable terms for this type of loan than those for program loans.

The Agency did not adopt these comments.

(b) Homestead Protection.

Respondents commented that the previous borrower's farm income, appraised value, and rents for homestead protection property should be based on a comparison of reasonably similar properties in location, size and type of operation. The Agency agrees and adopted this comment.

The Technical Corrections Act, Public Law 102-237 (12/12/91), changed section 352 of the CONACT to delete the term "borrower" and to substitute the term "borrower-owner." Section 352(a)(2) of the CONACT indicates that an owner can get homestead protection even if he or she is not a borrower. Thus, an applicant for Homestead Protection must be either a borrower and an owner, or just an owner if the owner and borrower are different. Paragraph 1951.911(b)(3) has been revised to implement this change.

Section 1951.912 Mediation

In connection with the proposed rule, the Office of Management and Budget requested that FmHA clarify what fees it would pay since it also has the responsibility to disburse grants for most of these programs. Therefore, the Agency has clarified that it will pay the same fees as charged to other creditors.

Section 1951.913 Servicing Net Recovery Buyout Recapture Agreements

Respondents commented that since FmHA has a lien of record on the real estate securing the net recovery buyout recapture agreement, the requirement for reviewing the real estate records is of minimal value. The Agency disagrees. Upon sale of the security property, FmHA would be entitled to recapture if sold for a gain. In some cases, property is sold subject to outstanding liens. The Agency would not always know about the sale unless the real estate records were searched. We do believe it is unnecessary to check the records every six months as was required, therefore, a revision is made to the regulations that would require a review of the real estate records every 24 months. If discovered that a sale had been made within the 24-month period, an appraisal will be made to reflect a fair market value at the time of sale. Such an appraisal will be used to determine the amount of recapture due the Agency.

See the discussion under exhibit C-1 concerning the appealability of recapture due under the net recovery buyout agreement.

Section 1951.914 Servicing of Accounts Restructured Under Primary Loan Service Programs

As noted above concerning § 1951.913, respondents commented on the requirement for reviewing real estate records when servicing Net Recovery Buyout Recapture Agreements. This requirement of real estate record review every 24 months also applies to § 1951.914 for servicing Shared Appreciation Agreements. In the case of a sale involving a shared appreciation agreement, the Agency would be entitled to either 50 or 75 percent of any appreciation as available that occurred from the date of the agreement to the date of the sale. An appraisal would be obtained to reflect the value of the property on the date sold to determine the amount of appreciation owed FmHA.

Respondents commented that the amount due on shared appreciation agreements should be consolidated with program loans and rescheduled rather than set up as a nonprogram loan. The Agency disagrees. The law does not require the Agency to finance the shared appreciation. It was an administrative decision to finance the shared appreciation. However, the Agency has the discretion and believes it is reasonable to make the shared appreciation which is due a nonprogram loan. The nonprogram loan will not count against the statutory limits of the program loan and this will not interfere with a borrower's ability to obtain additional FmHA financing. Also, the nonprogram loan will be easier to keep track of. Therefore, Agency does not adopt this comment.

Section 1951.918 FmHA Debt Restructuring Teams (DRAT)

A respondent commented that DRAT teams should contain members of the public and other FmHA borrowers. Public meetings should be held to discuss DRAT team assessments and findings. The Agency disagrees. DRAT teams review borrowers' confidential financial information that is protected by privacy laws and is not open to public inspection. The Agency does not adopt this comment.

Exhibit A of Subpart S

No comments were received on this exhibit. However, this notice will now be sent to borrowers that are 30 days past due on their payments. See the discussion above under § 1951.907.

The attachments of exhibit A generally have been revised to incorporate the same changes discussed above under Subpart S of part 1951. Some commenters wanted more detailed

information added to the attachments. The Agency disagrees. The attachments are not meant to fully discuss the regulations but only to briefly inform the borrower of the options available. The regulations are available for a more detailed description of the options and the servicing process. The borrower may request further information and assistance from FmMA and others concerning these notices.

Attachments 1 and 2 of Exhibit A of Subpart S

Respondents commented that the Agency should revise the discussion on nonessential assets to clarify that the borrower would be ineligible for Primary Loan Servicing only if the borrower had nonessential assets "with a value high enough" to bring the account current. The Agency adopted this comment.

A respondent commented that the Agency should add that the borrower has two opportunities to be considered for farmland leaseback/buyback. The Agency adopted this comment by adding that a borrower can enter into a preacquisition agreement prior to FmHA taking title to the property.

One respondent commented that the notice should inform the borrower that the lease also contains an option for purchase of the property and that FmHA can consider a borrower for credit to buy the property. The Agency adopted this comment.

The Agency has revised the notice to offer assistance to borrowers who are in financial distress in accordance with § 1951.908 and borrowers who are less than 180 days delinquent. If the borrower does not respond to the 30-day notice, the borrower will be renotified when the borrower becomes 180 days delinquent. If the borrower responds, the borrower will not be renotified when the borrower becomes 180 days delinquent. See the discussion above under § 1951.907.

The Agency has added that a borrower may choose which appraisal of assets he or she wants FmHA to use for the request when the FmHA's appraisal and the borrower's appraisal are within a five percent value of each other. See discussion under § 1951.909(i) above.

FmHA also has added explanations in the notices of the one-time writedown or buyout limit discussed under § 1951.909(c) and the taking of a lien on certain borrower assets as discussed under § 1951.910 above.

Attachments 5-A and 6-A of Exhibit A of Subpart S

No comments were received on these attachments. The Agency removed the option for negotiation of the FmHA appraisal from these attachments as it will now be offered in exhibits E and F. See discussion under paragraph 1951.909(i) above.

Attachments 9-A and 10-A of Exhibit A of Subpart S

No comments were received on these exhibits. The Agency has removed the independent appraisal request from these attachments as the appeal is offered in attachments 5-A and 6-A.

Exhibit B—Notification of Offer to Restructure Debt for Financially Distressed Borrowers Current on Their Loan Payments

Exhibit B and attachment 1 have been added so that a borrower that is not yet delinquent but is financially distressed and has applied for primary loan servicing can be notified of a favorable offer and given a response form to accept the offer. The borrower will be renegotiated when the account becomes 30 days delinquent if he or she does not respond to the offer. See discussion under § 1951.908 above.

Exhibit C-1—Net Recovery Buyout Recapture Agreement

A respondent commented that the agreement should contain the right for a farmer to appeal the amount due. The Agency has added this to § 1951.913 rather than in the agreement. The Agency adopts these comments.

Exhibit E—Notification of Request for Mediation or Meeting of Creditors and Other Options and Attachments

A respondent commented that the exhibit should indicate that the borrower is not required to sell or borrow against nonessential assets, and that the borrower should not be required to pay FmHA for the nonessential assets before meeting with other creditors. The Agency did not intend this interpretation and has clarified both the regulation and exhibits E and F with attachments. The Agency adopts these comments.

The borrower's right to select either the borrower's independent appraisal or FmHA's appraisal if they differ by five percent or less is discussed in this exhibit. The exhibit also explains how mathematical and property description errors in appraisal can be corrected. See discussion under § 1951.909(i) above.

Respondents commented that a borrower should be able to request a meeting of creditors even if their debts are not substantial. The Agency does

not agree. Holding a meeting in such case could not result in the borrower's development of a feasible plan and, therefore, would be useless. The Agency, however, has added that the borrower can appeal this issue later when attachments 5-A or 6-A are sent. In any case, borrowers that respond to attachment 1 will always get exhibits E or F, as applicable, to notify them of options other than mediation or meeting of creditors.

Exhibit F—Notification of Offer to Restructure Debt and Attachments

A respondent commented that the borrower should have appeal rights if the borrower disagrees with the offer. Although FmHA regulations provided this right, we have now added appeal rights to exhibit F and its attachment. We have also clarified its use. The Agency adopts this comment.

The Agency has also added Attachment 3, "Appraisal Agreement," to exhibit F. This agreement will be executed before the third appraisal is conducted in the negotiation of appraisal process set out in § 1951.909(i) of this subpart. This agreement is needed to document the intent of the borrower, FmHA, and the appraiser as to the terms and conditions of the appraisal. For instance, the agreement contains a certification of appraiser qualifications and FmHA appraisal requirements. It also establishes payment and delivery terms for the appraisal.

Exhibit H—Primary Loan Service Programs (Farm Debt Restructure and Conservation Easements)

One respondent commented that FmHA should completely re-write this exhibit to provide the following:

- Clear statement of appeal rights;
- Full disclosure of terms and conditions of the easement, including provisions for payment of property taxes;
- Uniform and consistent determinations of the value of the credit which directly relates to the loss in land value as a result of the easement, which would be determined by the terms and conditions of the easement;
- Clear application procedures and timeframes for old and new applicants;
- Clear procedures for delineating the easement boundaries and determining the terms and conditions of the easement;
- Clear procedures for determining how the borrower's farm plan will be altered to reflect lost income due to the easement;

—Clear statement of whether the credit is considered income, and subject to income taxes; and

—Far less County Supervisor discretion.

The Agency generally disagrees with these comments. As to the borrower's appeal rights, these are offered in exhibit F or in attachments 5 and 6, or 5-A and 6-A, as applicable, when the borrower is informed of the Agency's decision on restructuring the debt. Discussion of appeal rights in Exhibit H, therefore, is unnecessary.

Concerning the terms and conditions of the easement, these are specifically spelled out in the easement agreement the borrower signs. These are drawn up on a case by case basis depending on the easement. They are developed by the Easement Review Team in conjunction with the borrower and in accordance with the conditions already set out in the exhibit. Boundaries are described in a survey specifically made for the easement. Property taxes are the responsibility of the owner and are established by the local tax assessment authority. It would be impossible and unnecessary to set out these variable terms and conditions in this exhibit. This exhibit, however, does explain adequately the common requirements for calculating the value of easements that are specified by law.

As to the application procedures for old and new applicants, old applicants that have already been processed were processed in accordance with regulations in existence at that time. Any applications on hand or new applications received will be processed in accordance with the new regulations. Exhibit H, as revised by this rule reflects policy set out in the new regulations. Since the notice will not be used for old applications already processed, it need not discuss processing procedures which are now obsolete.

In response to the comment concerning procedures for altering the Farm and Home Plan, this operating plan will take into consideration the effects of the easement on the farming operation. Table D, Crops, Pasture, etc. Production and Sales, will reflect a change in crops grown or land taken out of production because of the easement. An easement will also change the production and sales of the crop. Table G, Cash Farm Operating Expenses, will reflect any changes in operating expenses as a result of easement. Since the Farm and Home Plan adequately covers changes resulting from a conservation easement, the Agency has determined that the issue need not be covered in exhibit H.

Concerning whether an easement credit will be considered taxable income, this is a question for the Internal Revenue Service or the borrower's tax accountant. It is inappropriate for the Agency to address this question.

As to the commentor's suggestion on reducing the County Supervisor's discretion in the area of conservation easement, such discretion already is limited. The easement review team, management authority, and the borrower are deeply involved in the process of establishing and managing the easement. Furthermore, the Agency cannot require a borrower to grant an easement. It is purely a voluntary decision.

The respondent also commented there was no justification for setting a 33 percent limit on the credit applied to a loan for a conservation easement. The 33 percent limit on the credit for a loan for the easement was set by statute; therefore, the Agency has no authority to deviate from the limit. The Agency does not adopt these comments and adopts the proposed rule unchanged.

Exhibit I—Guidelines for Determining Adjustments for Net Recovery Value of Collateral

One respondent commented that rental income should be included in the calculation for the net recovery value. The Agency is of the opinion that there is a provision for considering rental income if it is relatively certain the income will continue after the property is taken into inventory. No change is required. The Agency does not adopt this comment.

The Agency also has corrected this exhibit to state that no leased inventory property will be considered in determining the average holding period when calculating the net recovery value (NRV) of a property. The proposed rule had limited this exclusion only to those properties leased under the Preservation Loan Servicing Program. This was in error because FmHA receives income from all leases of inventory property. The rental income generally covers the Agency's expenses in holding the property in inventory. Therefore, it is a more accurate estimate of the Agency's holding cost to omit all leased properties when calculating the average holding period. This revision is consistent with FmHA's current policy under FmHA AN No. 2340 (1951) dated August 1, 1991.

Exhibit J-1—The Debt and Loan Restructuring System (DALRS)

Respondents wanted exhibit J-1 to be

DALRS computer program is used on published for comments before the new applications. The Agency is not adopting this proposal. Exhibits J and J-1 mainly describe the mathematical process for the calculations performed by DALRS in an attempt to find the most favorable financial solution for both the borrower and the Government. The process for exhibit J-1 is the same as exhibit J except for the additions provided for in the FACT ACT and implemented by this interim rule. New applications cannot be processed without the running of the updated version of DALRS as described in exhibit J-1. The publication of exhibit J-1 as a proposed rule would seriously delay the implementation of the rest of the regulations for processing new applications. That would create unnecessary hardships on a lot of borrowers that need their debts written down. Therefore, the exhibit is published as part of the interim rule. This interim rule, however, has a 60-day comment period.

Exhibit L—Homestead Protection Program Agreement

A respondent commented that the amount of the rental payment should be included in the agreement. The Agency disagrees. This is only a preacquisition agreement. The specific details of the lease are included in the lease form, Form FmHA 1955-20, that is an attachment to the agreement. The Agency does not adopt this comment.

Exhibit N—Leaseback/Buyback Agreement

A respondent commented that the amount of the rental payment should be included in the agreement, and any property containing wetlands, floodplains and/or highly erodible lands be specifically identified and all the conditions and terms of the agreement be spelled out up front. It is the Agency's opinion that the attachments for the legal description and the lease form, Form FmHA 1955-20, spell out the terms and conditions of the lease and are not needed in this preacquisition agreement. The Agency does not adopt this comment.

Exhibit O—Notice of Availability of Leaseback/Buyback

Exhibit O is revised to change the words "Dwelling Retention" to "Homestead Protection" as this was inadvertently overlooked in the proposed rule.

PART 1955—PROPERTY MANAGEMENT

Subpart A—Liquidating Loans Secured by Real Estate and Acquisition of Real and Chattel Property

This section was added to update the references to notices provided under subpart S of part 1951 of this chapter.

List of Subjects

7 CFR Part 1900

Appeals, Credit, Loan programs—Housing and community development.

7 CFR Part 1924

Agriculture, Construction management, Construction and repair, Energy conservation, Housing, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing.

7 CFR Part 1951

Accounting servicing, Credit, Debt restructuring, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing loans—Servicing.

7 CFR Part 1955

Agriculture, Foreclosure, Government property, Loan programs—agriculture, Loan programs—housing and community development.

Accordingly, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1900—GENERAL

1. The authority citation for part 1900 continues to read as follows:

Authority: 7 U.S.C. 1989; 31 U.S.C. 3701; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart B—Adverse Decisions and Administrative Appeals

2. Section 1900.53 is amended by redesignating paragraph (c) as paragraph (d); by revising paragraph (b) and by adding a new paragraph (c) to read as follows:

§ 1900.53 Adverse action procedures.

(b) When an applicant or borrower who is also an applicant for FmHA services wishes to contest an appraisal of property value (except for appraisals made in connection with farmer program primary and preservation loan servicing), the applicant or borrower must be advised that he or she must request review of the appraisal by the State Director of FmHA before the

appeal. Exhibit B-3 of this subpart will be used to notify the appellant. If an applicant or borrower seeks such a review, the time for requesting an appeal will be extended until after the State Director has acted on the review request. The State Director will review each such request and, when in his or her sole discretion it is deemed appropriate, may send a representative to make an onsite review. If this does not result in a resolution of the matter, exhibit B-4 of this subpart and Form FmHA 1900-1 will be sent to the appellants to notify them of their appeal rights.

(c) Appraisals involving farmer program primary and preservation loan servicing may be appealed directly to the Area Supervisor, National Appeals Staff, without prior review by the State Director. The appellant bears the burden of showing why the appraisal is in error. The appellant may submit an independent appraisal at his/her cost, from a qualified appraiser in accordance with § 1951.909 (i) of subpart S of part 1951 of this chapter. The appraisal must conform to Agency appraisal regulations applicable to the loan program. If the two appraisal values vary by no more than five percent, the borrower must select which of the two appraisals he or she wants FmHA to use in considering the servicing request. The appraisal the borrower selects will be the final appraisal and there will be no appeal. Appraisals that have been negotiated in accordance with § 1951.909(i) of subpart S of part 1951 of this chapter may not be appealed. The borrower, however, will have the opportunity to appeal issues other than appraisal issues after negotiation of the appraisal.

3. Section 1900.55 is revised by adding paragraphs (a)(17) and (18) to read as follows:

§ 1900.55 Appealable and nonappealable decisions.

(a) * * *

(17) Negotiated appraisals involving primary and preservation loan service programs for new applications. A new application is defined in § 1951.906 of subpart S of part 1951 of this chapter. Refer to § 1900.53 (c) of this subpart for borrower's negotiation rights.

(18) The County Committee's random selection by lot of an applicant for the purchase of suitable farm inventory property. However, the elimination of an applicant for the purchase of suitable inventory property from the priority categories is appealable.

§ 1900.55 [Amended]

4. Section 1900.55(b) is amended by inserting the words "as provided for in § 1900.53(c)" before the word "without" in the last sentence.

5. Section 1900.56 is amended by revising paragraph (a)(2) to read as follows:

§ 1900.56 Appeal requests.

(a) * * *

(2) If possible, the borrower should submit a copy of the independent appraisal to the initial decision maker and the hearing officer prior to the appeal hearing. The appellant's case file including the FmHA appraisal will be made available to the appellant or his representative at the FmHA decision maker's office for 10 working days following the receipt of a request for appeal. If the appellant has made a request to inspect or to receive copies of FmHA material concerning the case including any FmHA appraisal, the material will be made available to the appellant or the appellant's representative at the FmHA decision maker's office as soon as possible, but no later than 10 working days following the receipt of the request for the material. A written request from the appellant will not be required. Requests for information of a confidential nature exempt from disclosure under § 2015.204 of FmHA Instruction 2015-E, (available in any FmHA office) will be handled in accordance with that instruction. An FmHA employee will insure that no material is destroyed or removed from the file.

6. Section 1900.57 is amended by removing paragraph (m)(3), by redesignating paragraph (m)(4) as paragraph (m)(3), and by adding a new paragraph (n) to read as follows:

§ 1900.57 Hearing rules.

* * * * *

(n) *Farmer Program inventory property appeals.* (1) All applicants who were not considered in the same priority category as the applicant selected by the County Committee, may appeal their exclusion from the priority category. The inventory property will not be sold until all appeals under this paragraph are exhausted.

(2) If an appeal results in a determination that the appellant(s) was improperly excluded from the priority category, a new selection will be made under § 1955.107(e)(2) of subpart C of part 1955 of this chapter. The appellant(s) will be included in the priority category from which the random selection is made.

7. Section 1900.59 is amended by adding a new paragraph (d) to read as follows:

§ 1900.59 Effect of appeal decision.

* * * * *

(d) *Implementation.* Except as noted in paragraph (c) of this section and § 1900.61 of this subpart, the decision maker shall, upon having a case returned pursuant to the decision of a hearing officer, State Director or Director, National Appeals Staff, implement the appeal decision reversing the adverse decision within 60 days of receiving the decision. For the purpose of this section, "implementation" means the next step in a loan processing or loan servicing action, required by FmHA regulations, that would occur had no adverse decision been made and appeal filed.

PART 1924—CONSTRUCTION AND REPAIR

8. The authority citation for part 1924 continues to read as follows:

Authority: 7 U.S.C. 1989; U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart B—Management Advice to Individual Borrowers and Applicants

9. Sections 1924.59 and 1924.60 are revised to read as follows:

§ 1924.59 Supervision.

(a) *General.* Supervision will be provided within the FmHA official's discretion to increase the likelihood of the borrower's success and accomplishment of the loan while minimizing the cost to the Government. Through supervised credit FmHA will assist a borrower in the recovery from financial difficulty, or in the case of a beginning farmer, to develop the farm and financial management skills. In both cases, the objective is graduation to commercial sources of credit as soon as possible. To this end, supervisory assistance consists of conducting financial and production analysis, marketing analysis, and helping borrowers plan, prudently use credit, and adjust their businesses as needed. Emphasis is placed on keeping and analyzing farm records, identifying credit needs, and counseling on the feasibility of additional debt. As part of borrower supervision, adequate funds should be provided to eligible borrowers to permit the borrower to begin the farming operation in time to get the benefit of the full season's production. This can be accomplished by encouraging borrowers to keep their records up to date and file complete

applications well in advance of the time loan funds are needed.

(b) *FmHA Responsibilities.* Supervised credit is the development of a relationship that promotes trust and respect. Supervised credit must focus on farm and financial management and application of corrective action in a timely manner. FmHA has a responsibility to assist borrowers in contacting other private and public sources as needed to obtain technical assistance that will enhance borrower opportunity for success. If at all possible, funds will be made available prior to the time the borrower begins the farming season.

(c) *County Supervisor responsibilities.* The County Supervisor needs to be aware of all aspects of the borrower's operations so that financial and production strengths and weaknesses can be detected early and corrective actions taken before they develop into a situation which could lead to failure of the business. Early detection can only be accomplished by thorough analysis and planning at the end and beginning of each farming season and by careful and frequent monitoring of the borrower's financial and production management. If the planned objectives are not being met, the County Supervisor and the borrower should immediately develop the actions needed to reach the planned objectives or at least, minimize losses. When weaknesses in the business are identified, it may be necessary to make revisions in the Farm and Home Plan and Form FmHA 1962-1 as authorized by this subpart. Good supervision requires working with the borrower to develop and keep accurate and current records. Recordkeeping supervision will be provided as set forth in § 1924.58 of this subpart. Borrowers experiencing production and management problems should be referred to the Extension Service, the Agricultural Stabilization and Conservation Service, the Soil Conservation Service, or other agencies and organizations who can provide the needed assistance. Supervision should be designed to meet the borrower's needs and may require actual one on one supervisory sessions where borrowers are trained to fill out Farm and Home Plans and keep and analyze their records. In order to carry out their responsibilities, County Supervisors must:

(1) Schedule and conduct supervisory on-farm visits at the time when the farm and financial management of the operation can best be observed.

(2) Schedule and conduct analysis as needed to monitor the borrower's financial and farm management for the

purpose of identifying strengths and weaknesses in the borrower's business. When weaknesses are identified, the borrower and County Supervisor will attempt to develop actions to correct the problem and make necessary revisions on the Farm and Home Plan and Form FmHA 1962-1 as authorized by § 1924.57 (d) of this subpart and § 1962.17 of subpart A of part 1962 of this chapter.

(3) Utilize primary servicing tools described in subpart S of part 1951 of this chapter in a timely manner to assist borrowers in overcoming financial difficulty.

(4) Work toward helping the borrower to budget to meet essential family living and farm operating expenses in a timely manner. This requires careful planning for advances of loan funds and releases of proceeds from sale of normal income security where authorized.

(5) Record in the borrower's case file, the record of any visit of borrower consultation by the County Supervisor.

(d) *District Director responsibilities.* The District Director will be responsible for assuring that a good supervised credit program is being carried out. The District Director or designee will record in the borrower's case file, the record of any visit or borrower consultation by the District Director or designee. The case file will also be documented to include an assessment of the supervisory assistance being provided and corrective actions needed. The State Director will be informed at least annually of the adequacy of the supervised credit program in each County Office through the District Directors "Oversight Visit Report" required by FmHA Instruction 2006-M.

(e) *Borrower Responsibilities.* In order for the FmHA to carry out its objectives in providing supervised credit, borrowers must cooperate and keep agreements with FmHA. When loans or servicing actions are approved, borrowers will be advised by copy of exhibit C to subpart A of part 1910 of this chapter (available in any FmHA County Office) of responsibilities including the following:

(1) Keeping all written agreements reached with FmHA which includes making payments as scheduled, consistent with the Farm and Home Plan and Form FmHA 1962-1.

(2) Keeping accurate, up-to-date records of income and expenses for family living and operating expenses.

(3) Accounting to FmHA for all income and expenses for the farm and family at least quarterly as set forth on the Farm and Home Plan and Form FmHA 1962-1.

(4) Promptly advising the FmHA of any significant change in the business or

family expenses and requesting that the Farm and Home Plan and Form FmHA 1962-1 be revised when authorized.

(5) Promptly providing all information and records when requested in writing by the FmHA.

(6) Maintaining and protecting the collateral for the FmHA loans in a responsible manner and reporting promptly to the FmHA, any losses or other changes in the collateral.

(f) *Farm Visits.* Regular supervisory farm visits and review of progress being made are an essential part of an effective supervised credit program. Supervisory visits will be made as follows:

(1) A minimum of two visits per year will be made by the County Supervisor or designee, to borrowers who have been indebted for less than one full crop year, who have a limited resource loan, or who have had their loans reamortized, rescheduled, consolidated, subordinated, written down and/or deferred. Sufficient supervisory contacts must be made during each production/marketing cycle to ensure that the objectives of the loans are being met.

(2) The County Supervisor will use the following priorities in scheduling routine visits:

(i) Borrowers who have been indebted less than one full crop year or have a limited resource loan.

(ii) Borrowers who have been sent exhibit A of subpart S of part 1951 of this chapter.

(iii) Borrowers who have had their loans reamortized, rescheduled, consolidated and/or deferred or had their loan restructured.

(iv) Borrowers receiving annual production-type loans.

(v) Other borrowers.

(3) During each farm visit, the County Supervisor or designee will review and discuss with the borrower records of the farming business.

(4) The Farm and Home Plan and Form FmHA 1962-1 will be reviewed and discussed with the borrower and updated to reflect any changes needed in accordance with § 1962.17 of subpart A of part 1962 of this chapter. Attention should be given to the need for additional loan funds or income releases to maintain the business.

(5) The crops, livestock and any non-farm enterprises will be observed to determine if farm and financial management practices established according to § 1924.57(c)(2) of this subpart are being adequately applied.

(6) The County Supervisor or designee will document the borrower's case file to record the supervision given, the status of income and expenses as

compared to the Farm and Home Plan, the condition of the security, the condition of crops and livestock, the use of other credit as planned, weaknesses discussed and noted, agreements reached, adequacy of funding for the business. The County Supervisor or designee should also note the items requiring follow-up.

§ 1924.60 Analysis.

(a) *Purpose of analyses.* Analyses are used to develop information for sound lending and supervisory decisions that will assist borrowers in utilizing sound business planning and management practices. Analysis is also used to provide a basis for determining if loan servicing under subpart S of part 1951 of this chapter is needed or whether financial assistance is necessary to meet essential family living and operating expenses. Analysis will be used to:

(1) Determine the profitability of the business.

(2) Determine success in key management practices.

(3) Monitor progress of borrowers in achieving short- and long-range goals.

(4) Help the County Supervisor or designee determine how much and what type of individual supervision will be required for each borrower. The analysis will also help the County Supervisor determine servicing actions needed to correct identified weaknesses in the borrowers' operation.

(5) Help the borrower and the County Supervisor or designee prepare an annual plan of operation for the next production/marketing cycle and help them make sound management decisions.

(6) Determine and evaluate servicing actions needed to develop a feasible plan.

(7) Identify trends occurring in the business which could lead to failure.

(8) Identify key expenses and determine if there is a possibility of reducing them.

(9) Identify major and minor sources of income and determine if they are contributing to profit or loss in the business.

(10) Determine if the plan is being followed and if revisions in the plan are needed.

(11) Determine the time and need for any new loans and/or releases.

(b) *Items considered when making an analysis.* The following are some of the items that should be considered during an analysis:

(1) Options for different types of enterprises available for the operation such as corn vs. soybeans, selling the crop vs. feeding it to livestock, etc.

(2) Comparison of livestock and crop production to past production and to the production of successful farmers in the area.

(3) Financial progress, increase or decrease of debts as compared to the increase or decrease of assets.

(4) Operating expenses compared to previous years.

(5) Operating expenses compared to successful farming operations in the area.

(6) Debt repayment as compared to money available to pay debts.

(7) Cost of credit.

(8) The operating profit percentage.

(9) Key expenses.

(10) Major and minor sources of income and the return on assets invested in these sources of income.

(11) Non-essential assets as defined in § 1951.906 of subpart S of part 1951 of this chapter and their contribution or cost to the overall business.

(12) Need for and feasibility of capital purchases.

(c) *Conducting analysis.* An annual analysis will be conducted for borrowers:

(1) On which a credit decision (loan made, subordination, or servicing) was made by FmHA during the production/marketing cycle just being completed.

(2) Who became financially distressed as defined in § 1951.906 of subpart S of part 1951 of this chapter.

(3) Who are receiving limited resource rates of interest.

(4) Whose loans have been deferred.

(d) *Responsibility of the County Supervisor.* A complete, annual analysis is essential to providing good borrower supervision. The County Supervisor or designee will:

(1) Carefully review borrower's records at least quarterly and compare income and expenses with projections made in the Farm and Home Plan in order to be fully informed about the borrower's business.

(2) Within the 90-day period prior to completion of the borrower's production/marketing cycle (period of the Farm and Home Plan), schedule and complete an analysis for borrowers as set forth in paragraph (c) of this section. Items listed in paragraph (b) of this section will be considered during the analysis.

(3) With the Borrower's Assistance, complete the "actual" columns on Forms FmHA 431-2 and 1962-1 or similar plans of operation acceptable to FmHA for the next year. This will familiarize the borrower with the importance of this process.

(4) Make a complete entry in the case file running record of the key management problems which were

identified and discussed with the borrower along with agreements reached during the discussion of the analysis. Underscore those items requiring follow-up action. Follow-up actions needed and completed will be recorded on the borrowers' management system card.

(5) Record the results in Form FmHA 1960-12, "Financial and Production Farm Analysis Summary" and the "Historical Performance Worksheets".

(6) Complete the "Annual Performance Evaluation Worksheet" and the "Capital Management Worksheets," if necessary.

(e) *Action to take when analysis is completed.* When the analysis of the production/marketing cycle has been completed (analysis should be completed before the end of the production/marketing cycle) and the Farm and Home Plan and form FmHA 1962-1 developed for the next production/marketing cycle, the County Supervisor will take the following actions:

(1) *Borrower Situation Number 1.* The next production/marketing cycle plan IS FEASIBLE and the borrower will be current if available proceeds are applied to scheduled payments, requested loans to eligible borrowers can be approved. If possible, advances of any loan funds will be scheduled to be available before the beginning of the normal production cycle. If loan funds will not be available to the borrower in time to begin the normal production/marketing cycle, release of normal income as set forth in § 1962.17 of Subpart A of Part 1962 will be considered to meet essential family living and operating expenses.

(2) *Borrower Situation Number 2.* The next production/marketing cycle plan is not feasible but the borrower would be current if the available proceeds were applied on FmHA payments. A meeting will be held with the borrower within 5 working days of completing the analysis to discuss solutions for the problem. The borrower will be advised of possible options such as, primary loan servicing, releases of proceeds from the sale of normal income security, and additional loan funds. Any loan servicing requests will be handled in accordance with § 1951.908 of subpart S of part 1951 of this chapter. Requested loans can be approved if the borrower is found eligible and can present a feasible plan under appropriate loan making regulations. Advances of loan funds to eligible borrowers, if available, should be scheduled to be available in time to begin the normal farming season. If loan funds will not be available to the borrower in time to begin the normal

production/marketing cycle, release of normal income as set forth in § 1962.17 of subpart A of part 1962 of this chapter will be considered to meet essential family living and farm operating expenses.

(3) *Borrower Situation Number 3.* If a non-delinquent borrowers' debt cannot be restructured without writedown according to § 1951.908 of subpart S of part 1951 of this chapter, release of normal income as set forth in § 1962.17 of subpart A of part 1962 will be considered to meet essential family living and operating expenses. When the account becomes delinquent, the borrower may be eligible for a Distressed Farmer Program loan in accordance with § 1941.14 of subpart A of part 1941 of this chapter and writedown in accordance with § 1951.909(e)(4) of subpart S of part 1951 of this chapter.

PART 1951—SERVICING AND COLLECTIONS

The authority citation for part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart S—Farmer Program Account Servicing Policies

10. In subpart S of part 1951, §§ 1951.901 through 1951.950 are revised to read as follows:

§ 1951.901 Purpose.

This subpart describes the policies and procedures that Farmers Home Administration (FmHA) will use in servicing most Farmer Program loans. The loans include Operating Loan (OL), Farm Ownership Loan (FO), Soil and Water Loan (SW), Softwood Timber Production Loan (ST), Emergency Loan (EM), Economic Emergency Loan (EE), Economic Opportunity Loan (EO), Recreation Loan (RL), and Rural Housing Loan for farm service buildings (RHF) accounts. Cases involving unauthorized assistance will be serviced as described in subpart L of this part. For the purposes of subpart L of this part, when it has been determined that all the conditions outlined in § 1951.558(b) of subpart L of this part have been met, the loan will be treated as an authorized loan and may be serviced under this subpart. Cases involving graduation of borrowers to other sources of credit will be serviced as described in subpart F of this part. This subpart does not apply to Farmer Program Non-Program (NP) loans. Examples of primary loan service actions that FmHA may take are: consolidation, rescheduling and/or

reamortization, deferral of principal and interest payments, reclassifying to ST loans, reducing interest rate on the loan, writedown of debt and conservation set-aside easements, or a combination of these actions. Examples of preservation loan service actions that FmHA may take are leaseback/buyback and/or homestead protection.

§ 1951.902 General.

(a) *Supervision and servicing.* It is a primary objective of the Agency to provide supervised credit to borrowers in financial difficulty in a manner that will assure the maximum opportunity for the borrower's recovery and at the same time, get the best net recovery for the Government. Supervision and servicing is a continuing process that begins the day a farmer comes into the FmHA's credit program. Providing supervised credit to farmers has two objectives; to help the farmers work out of financial difficulty so they can move to private sector credit, and to minimize costs to the Government. The continuing process of supervision and servicing can be described as phases a borrower's account may go through during the borrower's tenure with FmHA. There are five possible phases which are summarized under paragraph (b) of this section. This summary provides only a general outline of the servicing process. It will not be construed as providing substantive or procedural rights or obligations to the extent of any conflict with other FmHA regulations. Adverse decisions made during the servicing process are subject to appeal procedures set out in subpart B of part 1900 of this chapter.

(b) *Phases—(1) Phase (I).* The borrower is current or can be current on payments but is in financial distress. The borrowers will be notified of available servicing options in accordance with § 1951.908 of this subpart. FmHA will carefully analyze the farming operation at least annually to determine the cause of any financial deterioration. Remedial action needed to reverse the trend will be identified. The use of rescheduling and/or reamortization at regular interest rates and terms will be considered in an effort to keep the borrower from becoming delinquent. If those options will not provide the assistance needed, the borrower will be considered in Phase II.

(2) *Phase (II).* In Phase II, additional restructuring options are available. In addition to rescheduling and/or reamortization, limited resource interest rates, deferrals, including ST loans, and an easement in exchange of debt will be considered. The borrower will be considered in Phase III when the

accounts are 30 days behind schedule. The borrower will be notified of the available primary, preservation loan servicing and debt settlement programs in accordance with § 1951.907 of this subpart.

(3) *Phase (III).* In Phase III, in addition to all of the servicing options considered in Phases I and II, the borrower at this point, is considered for a debt writedown. FmHA determines whether or not the best recovery to the Government is by keeping the farmer on the farm or by liquidation. To do this, FmHA compares the present value of the restructured debt to the net recovery value of the collateral as defined in this subpart. If the calculations show that the present value of the payments to be received on the restructured debt are greater than or equal to the net recovery value of the collateral, FmHA will offer to restructure the debt. FmHA also will consider any nonessential assets that the borrower may own. If a feasible plan of operation cannot be developed, will send the borrower information concerning any available State mediation program or meeting of creditors. If a feasible plan cannot be developed through mediation or a meeting of creditors, the borrower will be notified of FmHA's intent to accelerate the account and offer the borrower the opportunity to retain the security property by paying FmHA the net recovery value (buyout). The borrower will be in Phase IV at this point.

(4) *Phase (IV).* When all combinations of primary servicing have been fully and carefully considered and liquidation is the only course of action, the borrower will be considered in Phase IV which is the beginning of the liquidation process. Before acceleration, FmHA will offer preservation loan service options to borrowers. These options include both an opportunity to lease or buy back the property that is subject to foreclosure. The borrower can apply for debt settlement when conveying the property, either by sale at market value or voluntary conveyance to FmHA. Debt settlement procedures are set out in subpart B of part 1956 of this chapter.

(5) *Phase (V).* After acceleration and foreclosure, the borrower is considered in Phase V. This Phase begins when the property securing the borrower's debt to FmHA passes into FmHA inventory. If FmHA acquires the property, Preservation Loan Service Programs will be offered to the borrower.

§ 1951.903 Authorities and responsibilities.

(a) *Responsibilities.* County Supervisors will make full use of the National automated tracking system to track and manage the FP primary and preservation loan servicing and debt settlement programs.

(b) *Authorities.* All loan servicing decisions except as set forth in this section will be made by the County Supervisor except the approval of writedown and buyout of a borrower's debt. Also, all applications for debt settlement of FP loans must be recommended by the FmHA County Committee (except where the debt has been discharged through bankruptcy), approved by the FmHA State Director or the FmHA Administrator (depending upon the amount of debt to be settled), and processed in accordance with the provisions of subpart B of part 1956 of this chapter. County Supervisors are authorized to accept a buyout payment when the borrower(s) pays the net recovery value of the FmHA security set forth in § 1951.909 of this subpart. Only State Directors are authorized to approve writedown and buyout in accordance with § 1951.909 of this subpart. Only State Directors are authorized to release a divorced spouse from liability on the debt in accordance with § 1951.909(a) of this subpart. County Supervisors are authorized to consolidate and reschedule/reamortize or defer a borrower's loans only one time. If subsequent reschedulings/reamortizations and/or deferrals are necessary, approval must be in writing by the District Director.

§§ 1951.904-1951.905 [Reserved]**§ 1951.906 Definitions.**

As used in this subpart, the following definitions apply:

Borrower. An individual or entity which has or is presently operating the farm and has outstanding obligations to the Farmers Home Administration (FmHA) under any Farmer Program loan(s), without regard to whether the loan has been accelerated, but does not include any such debtor whose total loans and accounts have been foreclosed or liquidated, voluntarily or otherwise. Collection-only borrowers are considered borrowers. Borrower also includes any other party liable for the FmHA debt. Non-program (NP) borrowers are not considered borrowers for purposes of this subpart.

Contact or Contact property. Property which secured a loan made or insured under the Consolidated Farm and Rural Development Act. Within this subpart, it shall also be construed to cover

property which secured other Farmer Programs loans.

Debt settlement. The settlement of debts owed the United States for FmHA Farmer programs, Single-Family Housing and Multiple Family Housing programs. The types of debt settlement programs are: compromise, adjustment, cancellation and chargeoff. These programs are administered in accordance with the provisions of subpart B of part 1956 of this chapter.

Delinquent borrower. A borrower who has failed to make all or part of a payment which is due for 30 or more calendar days after the due date.

Entity. A corporation, partnership, joint operation, or cooperative.

Entity members. For purposes of leaseback/buyback, entity members are stockholders of a corporation, partners of a partnership, joint operators of a joint operation and members of a cooperative, provided that the shareholders of the corporation, partners of the partnership, joint operators of a joint operation or members of a cooperative must be exclusively members of the same family. To be considered members of the same family, the members of an entity must be related by blood or marriage.

Farm plan. Form FmHA 431-2, "Farm and Home Plan," or other plans or documents acceptable to FmHA that will accurately reflect the production and financial management of the farming operation for one production cycle. FmHA will not require the use of consolidated financial statements.

Farmer Program (FP) loans. This refers to Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Economic Opportunity (EO), Operating (OL), Emergency (EM), Economic Emergency (EE), Softwood Timber (ST) loans, and Rural Housing loans for farm service buildings (RHF).

Feasible plan. A feasible plan is a plan based upon the applicant/borrower's actual records that show the farming operation's actual income, production and expenses. Income tax returns and supporting documents (hereafter called income tax records) will also be reviewed to verify the actual records. See § 1951.907(f)(5)(xi) for instructions on the handling of income tax records. The records, including income tax records, must be for the most recent five-year period or if the borrower has been farming less than five years, the records for the period which the borrower has farmed. For borrowers who have been farming for less than five years, the borrower's actual records will be used along with other available records in the order listed in § 1924.57(d)(1) of subpart B of

part 1924 of this chapter to complete a five-year history. Future production yields will be based on a five-year average of the most recent past five years' actual production yields. Borrowers that have yields affected by disasters in at least two of the five most recent years' actual production may exclude the crop year with the lowest actual yield. In addition, in accordance with § 1924.57(d)(1) of subpart B of part 1924, if the applicant's remaining disaster year's(s) yield(s) is less than the County average yield and the borrower's yields were affected by the disaster, County average yields will be used for that year(s). If County average yields are not available, State average yields will be used. These records will be used along with realistic anticipated prices, including any planned farm program payments, to determine that the income from the farming operation and any reliable off-farm income, will provide the income necessary for an applicant/borrower to at least be able to:

(1) Pay all operating expenses and all taxes which are due during the projected farm budget period.

(2) Meet scheduled payments on all debts, except as provided in § 1941.14 of subpart A of part 1941 of this chapter for annual production loans or subordinations made to delinquent borrowers.

(3) Meet up to 105 percent, but not less than 100 percent, of the scheduled payments on all debts, except as provided in § 1941.14 of subpart A of part 1941 of this chapter, for annual production loans or subordinations made to a delinquent borrower submitting a "New Application." FmHA will assume that a borrower needs up to 105 percent of the scheduled payments on all the debts for the planned period in order to meet the obligations and continue farming. However, this will not prohibit a borrower from receiving debt restructuring because the projected income is less than 105 percent of the scheduled payments. In no case will a borrower receive restructuring if projected income is less than 100 percent of scheduled payments.

(4) Provide living expenses for the family members of an individual borrower or a wage for the farm operator in the case of a cooperative, corporation, partnership, or joint operation borrower, which is in accordance with the essential family needs. Family members include the individual borrower or farm operator in the case of an entity, and the immediate members of the family who reside in the same household.

Financially distressed. A financially distressed borrower is one who will not be able to make payments as planned for the current and/or next production/marketing cycle. Borrowers will also be considered as in financial distress if it is determined that the borrower will not be able to project a feasible plan of operation for the next production/marketing cycle.

Foreclosed. The completed act of selling security either under the "power of sale" in the security instrument or through court proceedings.

Good faith. An eligibility requirement for Primary Loan Servicing including Net Recovery Buyout, and Leaseback/Buyback. A borrower is considered to have acted in "good faith" if the borrower has demonstrated "honesty" and "sincerity" in carrying out the agreements set forth on Form FmHA 1962-1, "Agreement for the Use of Proceeds/Release of Chattel Security" and any other written agreements made with FmHA. Findings of a lack of good faith will be based on violations within the borrower's control. These actions will demonstrate the borrower's intent to violate written agreements with FmHA. All lack of good faith determinations will be adequately documented in the case file. In addition, FmHA must substantiate any allegations of fraud, waste, or conversion with a written legal opinion by the Office of the General Counsel (OGC) when such allegations are used to deny a servicing request. Unapproved dispositions of chattel security should also be processed in accordance with § 1962.18 of subpart A of part 1962 of this chapter. A borrower will not be considered to lack "good faith" if the sole basis for such determination was the disposition of normal income security (as defined in § 1962.4 of subpart A of part 1962 of this chapter) prior to October 14, 1988, without FmHA's consent and the borrower demonstrates that the proceeds were used to pay essential family living and farm operating expenses that FmHA could have approved according to § 1962.17 of subpart A of part 1962 of this chapter.

Homestead Protection. This refers to the right of a former owner to lease with an option to purchase the Homestead Protection property, not to exceed 10 acres.

Homestead Protection property. This refers to the principal residence which secured a Farmer Program loan.

Indian Reservation. Indian reservation means all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including

rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a Federally recognized Indian tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a Federally recognized Indian Tribe.

Leaseback/buyback property. Real farm and ranch property and any off-farm principal residence(s) of the operator(s) which secured an FP loan. Any off-farm principal residence(s) of the former borrower(s) and/or owner(s), who are not the operator(s) of the farm or ranch property, are not considered leaseback/buyback property.

Liquidated. The completed act of voluntarily selling security to end the obligation for the debt, or involuntarily as the result of a completed civil suit against a borrower to recover collateral against the debt. The filing of a claim in a bankruptcy action is not a complete liquidation of the borrower's accounts. Collection-only accounts are not considered liquidated.

Loan service program. Loan service program means a Primary Loan Service Program or a Preservation Loan Service Program for FP borrowers.

New application. An application submitted by a borrower on or after November 28, 1990, for loan servicing programs. This does not include an application reconsidered after an appeal or revision of an application submitted before November 28, 1990.

Nonessential assets. Nonessential assets are assets which FmHA does not have a lien on and which the borrower has an ownership interest in, that:

- (1) Do not contribute a net income to pay essential family living expenses or to maintain a sound farming operation (See § 1962.17 of subpart A of part 1962 of this chapter for further guidance.); and
- (2) Are not exempt from judgment creditors or in a bankruptcy action. Each State Director with the guidance of the Office of the General Counsel will issue a State Supplement to establish guidelines on items that are exempt from judgment creditors and are exempt under bankruptcy law in accordance with the laws for their State.

NonProgram (NP) loan. An NP loan results when loan(s) are made to ineligible applicants and/or transferees in connection with loan assumptions and sale of surplus inventory properties at ineligible terms after first being offered for public sale by sealed bid or auction. A borrower is not considered to have a NON-PROGRAM loan, if the borrower is found to be ineligible after

receiving the loan, when the reason the borrower was originally determined eligible by FmHA or by a court of law, was due to a mistake on FmHA's part.

Preservation loan service program. Preservation loan service program means:

(a) Homestead protection as described in § 1951.911 of this subpart, and

(b) Leaseback or buyback of farm land as described in § 1951.911 of this subpart.

Primary loan service program. Primary loan service program means:

(1) Loan consolidation, rescheduling, or reamortization;

(2) Interest rate reduction, including use of the limited resource program;

(3) Loan restructuring, including deferral, or writing down of the principal or accumulated interest charges, or both, of the loan; or

(4) any combination of actions listed in the paragraphs 4 (i), (ii), and (iii) of this definition.

(i) **Consolidate.** Consolidate means to combine and reschedule the rates and terms of two or more notes of the same type of OL or EO loans, EE operating-type loans or EM loans. EM actual loss loans will not be consolidated.

(ii) **Deferral.** Deferral is an approved delay in making regularly scheduled payments, including softwood timber (ST) loan.

(iii) **Limited Resource Program.** The limited resource program is a reduction of interest rates for operating loans (OL), farm ownership loans (FO) and soil and water loans (SW).

(iv) **Reamortization.** Reamortization means to rearrange the installment payments of a real estate loan and may include changing the interest rate and terms of the loan made for subtitle A purposes.

(v) **Reschedule.** Reschedule means to rewrite the rates and/or terms of OL, SL, EO loans, EE operating-type loans or EM loans made for subtitle B purposes.

(vi) **Writedown.** For purposes of this part, writedown is reducing a borrower's debt in an amount that will result in a feasible plan of operation.

§ 1951.907 Notice of loan service programs.

In those instances where the applicable notice is sent certified mail, and the certified mail is not accepted by the borrower, the County Supervisor will immediately send the documents from the certified mail package to the borrower's last known address, first class mail. The appropriate response time will commence 3 days following the date of first class mailing.

(a) *Notification of borrowers who file bankruptcy.* The account will be serviced in accordance with instructions from the Regional Office of the General Counsel (OGC), and in accordance with § 1962.47(a)(3) of subpart A of part 1962 of this chapter.

(b) *Notification of borrowers who have been discharged in bankruptcy or who have plans confirmed by bankruptcy courts.* If the borrower has been discharged in bankruptcy or the borrower is operating under a confirmed plan, the account will be serviced in accordance with instructions from the Regional OGC and in accordance with § 1962.47 (a) or (c) of subpart A of part 1962 of this chapter.

(c) *Notification of borrowers that are 30 days late on the payments.* (1) A borrower who has failed to make all or a part of a payment which is due for 30 or more calendar days after the due date, as listed on the 540 or 580 delinquency reports, will be sent exhibit A of this subpart with attachments 1 and 2 within 15 days of receiving the report. If the borrower submits attachment 2 with a complete application as described in paragraph (f)(1) of this section, the application will be processed in accordance with § 1951.909 of this subpart. The borrower will not be renotified when the account becomes 180 days delinquent. If the borrower submits an incomplete application see paragraph (f) of this section.

(2) If the borrower does not submit attachment 2 of exhibit A of this subpart with a completed application within 60 days, the application will not be processed. The borrower will be renotified when 180 days delinquent in accordance with paragraph (d) of this section.

(d) *Notification of borrowers 180 days delinquent.* Farmer Program borrowers who are 180 days delinquent, as listed on the 540 or 580 delinquency report, will be sent exhibit A of this subpart with attachments 1 and 2 within 15 days of receiving the report, by certified mail, return receipt requested unless they are already being processed for servicing in accordance with paragraph (c) of this section. If the borrower submits an incomplete application see paragraph (f) of this section for procedures on requesting additional information. Borrowers who are 180 days delinquent and have also violated their loan agreements with FmHA will be handled in accordance with paragraph (e) of this section. In addition to the requirements set forth above, FmHA County Supervisors will provide attachments 1 and 2 of exhibit A of this subpart to Farmer Program borrowers, as set forth below:

(1) At the time an application is made for participation in an FmHA loan service program, unless such application is the result of the notice provided to the borrower in accordance with this section,

(2) On written request of any FP borrower, whether delinquent or not, and

(3) If a borrower has not previously received exhibit A and attachments 1 and 2 of this subpart, such exhibit and attachments will be provided before the earliest of:

(i) Initiating any FmHA liquidation action,

(ii) Accepting a voluntary conveyance of security, or the borrower requesting permission to sell security,

(iii) Accelerating payments on the loan,

(iv) Repossessing the borrower's property,

(v) Foreclosing on property, or

(vi) Taking any other collection action,

(e) *Notification of borrowers in non-monetary default or for delinquent borrowers also in non-monetary default or when a prior or junior lienholder is foreclosing and FmHA is notified of the foreclosure.* Farmer Program borrowers who are in non-monetary default will be sent attachments 1, 3, and 4 of exhibit A of this subpart by certified mail, return receipt requested. If a case is in the hands of the U.S. Attorney, no loan servicing action will be taken without the U.S. Attorney's concurrence as set forth in § 1962.49 of subpart A of part 1962 of this chapter. If the borrower has filed bankruptcy, the account will be serviced in accordance with instructions from OGC. Any servicing request will be processed as indicated in § 1951.909 of this subpart. The account will not be liquidated until the borrower has the opportunity to appeal any adverse decision. After any final FmHA appeal decision, that does not result in a resolution on the loan defaults, the account will be accelerated as set forth in § 1955.15 of subpart A of part 1955 of this chapter.

(f) *Request for primary and preservation loan service programs.* (1) To request consideration for Primary and Preservation Loan Service Programs FP borrowers who are sent exhibit A, with attachments 1 and 2 or attachments 1, 3, and 4 must complete and return attachment 2 or attachment 4, as appropriate, to the FmHA County Office within 60 days after receiving the notices with the forms required by this paragraph for a completed application. If the borrower submits an incomplete application within the 60 days, the County Supervisor will immediately

contact the borrower to request any additional information needed for a complete application. The County Supervisor will inform the borrower what information must be submitted, and that it must be submitted within 60 days of the date the borrower received the initial notices. The borrower also will be informed of the expiration date for submitting information. The County Supervisor's request for additional information will be documented in the case file.

(2) If the borrowers were sent attachments 3 and 4 and do not request servicing within 60 days or a hearing to appeal the nonmonetary default within 30 days, FmHA will proceed with liquidation in accordance with § 1955.15 of subpart A of part 1955 of this chapter.

(3) If borrowers were sent exhibit A and attachments 1 and 2 of this subpart when they are 180 days delinquent and do not submit a completed application within the 60-day time period, the County Supervisor will send attachments 9 and 10, or 9-A and 10-A of exhibit A of this subpart, as applicable. These attachments will not be sent to borrowers who are being serviced in accordance with paragraph (c) of this section or § 1951.908 of this subpart. For borrowers receiving attachments 9 and 10 or 9-A and 10-A, after the expiration of appeal rights, FmHA will proceed with liquidation in accordance with § 1955.15 of subpart B of part 1955 of this chapter. The account will not be accelerated until any appeal has been concluded.

(4) If a borrower has moved and left a forwarding address, the certified mail will be forwarded. If no forwarding address is given, the mail will be returned to the County Office. The County Supervisor will immediately send the documents from the certified mail package to the borrower's last known address, first-class mail. The borrower's response date for a completed application will begin 3 days following the date of first-class mailing.

(5) An application for loan service programs will include the following forms (available in any FmHA office), records and information:

(i) Form FmHA 410-1, "Application for FmHA Services," including a current (within 90 days) financial statement of all individuals and entities personally liable for the FmHA debt.

(ii) Form FmHA 410-8, "Applicant Reference Letter."

(iii) Form FmHA 410-9, "Statement Required by the Privacy Act."

(iv) Form FmHA 431-2, "Farm and Home Plan," or any other plan acceptable to FmHA that sets forth a

plan of operation. A copy of the commodity prices used by FmHA will be included with the forms sent to the borrower. The County Supervisor will assist the borrower in the use of these prices.

(v) Form(s) FmHA 440-32, "Request for Statement of Debts and Collateral."

(vi) Form(s) FmHA 1910-5, "Request for Verification of Employment."

(vii) Form FmHA 1924-1, "Development Plan," if development is planned. Plans, specifications, and cost estimates must be attached to Form FmHA 1924-1. When development is required to comply with "Highly Erodible and Wetland" requirements, estimated costs and the conservation plan developed by SCS will be used to satisfy this requirement. If Form FmHA 1924-1 is submitted with the application the County Supervisor will assist the borrower in completing the plan and advise the borrower of any additional information that is needed.

(viii) Form AD-1026, "Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification," is included as part of the complete application after being completed by SCS. (This form is available at SCS County Offices.)

(ix) Form SCS CPA-26, "Highly Erodible Land and Wetland Determination," if not previously on file with FmHA for the farm operation(s). This form is included as part of the complete application after being completed by SCS. (This form is available at SCS County Offices.)

(x) An ASCS photo of the farm, on which the applicant must show that portion of the farm and approximate acres to be considered in a request for debt restructuring provided for in the Conservation Easement program. This information does not need to be provided if the applicant does not want to be considered for conservation easement at this time.

(xi) The most recent five years income tax returns and supporting documents unless the borrower has been farming for less than five years. If the farmer has been farming for less than 5 years, income tax returns and supporting documents for the tax years immediately preceding the year of application during which the borrower farmed will be provided. Income tax returns and supporting documents will be returned to the borrower when the request has been processed. A copy of the income tax returns and supporting documents will be stamped "Confidential" and filed in the borrower's FmHA file, and not released outside of the U.S. Department of

Agriculture without approval of the Regional Attorney.

(xii) The County Supervisor will provide the borrower with copies of the above forms when exhibit A is forwarded. When requested by the borrower, copies of FmHA regulations and the forms manual inserts (FMI) will be provided within 10 days of the request. The borrower's County Office case file will be documented to provide a record that the FmHA regulations were sent.

(xiii) Form FmHA 1956-1, "Application for Settlement of Indebtedness." This form need not be provided if the borrower does not want to be considered for debt settlement. The borrower can apply for debt settlement any time in accordance with subpart B of part 1956 of this chapter.

(6) Not more than one 60-day period will be provided to a borrower to respond to the notice of loan service programs except in accordance with paragraph (c) of this section or § 1951.908 of this subpart. Subsequent notices as provided for in this section will not be issued until the first notice is resolved.

§ 1951.908 Servicing financially distressed current borrowers.

A Borrower That Is Financially Distressed, But Is Not Yet Delinquent on FmHA Payments May Request Servicing at Any Time

(a) *Notification.* If a current plan of operation demonstrates that the borrower is or will be financially distressed, as defined in § 1951.906 of this subpart or if the borrower otherwise requests servicing, the FmHA official will provide the borrower with attachments 1 and 2 of exhibit A of this subpart. It will be documented in the file that the borrower was provided the attachments.

(b) *Eligibility.* In order to be considered for servicing in accordance with this section, the borrower must submit to FmHA within 60 days attachment 2 of exhibit A of this subpart and a complete application in accordance with the requirements of paragraph (f)(1) of this section.

(1) The eligibility requirements of § 1951.909(c) (1) and (2) of this subpart apply to servicing under this section.

(2) Eligible financially distressed borrowers who are current on their FmHA payments may be considered for the Primary Loan Service Programs described in § 1951.909(e) (1), (2), and (3) of this subpart.

(3) Financially distressed borrowers

that are not delinquent are not eligible for the writedown of debt or buyout described in § 1951.909 of this subpart.

(c) *Processing the application.* The County Supervisor must process a completed application and notify the borrower of the decision within 90 days of receiving the application.

(1) Current borrowers will only be considered for the Primary Loan Servicing Programs described in § 1951.909(e) (1), (2), and (3) of this subpart for consolidation, rescheduling, reamortization and deferral of Farmer Program loans. The County Supervisor must use the FmHA computer program Debt and Loan Restructuring System (DALRS) in accordance with exhibit J-1 of this subpart to determine if a feasible plan can be developed as defined in § 1951.906. The County Supervisor will assist the borrower in developing the necessary farm and home plans.

(2) If a feasible plan can be developed, the borrower will be sent exhibit B of this subpart with attachment 1 and the printout of the DALRS calculations to notify the borrower of the favorable decision. The borrower must notify FmHA of acceptance of the offer within 45 days of its receipt by returning attachment 1 to exhibit B of this subpart or the offer will expire. If the borrower accepts the offer the loan restructuring will be processed in accordance with § 1951.909(e)(1), (2), and/or (3) of this subpart, as applicable.

(3) If a feasible plan cannot be developed, the borrower will be informed of the reasons for the adverse decision and given appeal rights in accordance with subpart B of part 1900 of this chapter. The DALRS printout will be attached to the letter. The borrower will be notified by exhibit A of subpart B of part 1924 of this chapter of the right to release of normal income security as provided for in § 1962.17 of subpart A of part 1962 of this chapter.

(4) If the borrower does not apply for primary loan servicing, does not accept the offer for restructuring or does not appeal an adverse decision, and later becomes 30 days past due on the FmHA payment, the borrower will be sent new notices as described in § 1951.907 of this subpart.

(5) Release of proceeds from the sale of normal income security must be provided as set forth in § 1962.17 of subpart A of part 1962 of this chapter for both financially distressed and delinquent borrowers until the account is accelerated.

§ 1951.909 Processing Primary Loan Service Programs requests.

For Borrowers Who Submit New Applications Also See § 1951.910 of This Subpart.

(a) *FmHA responsibilities.* (1) Within 90 days after receipt of attachment 2 or 4 and a completed application in accordance with § 1951.907(f) of this subpart, the County Supervisor will consider all primary service programs options in this subpart. The County Supervisor must use the FmHA computer program, "Debt and Loan Restructuring System (DALRS)," in accordance with exhibit J for borrowers who applied before November 28, 1990, or exhibit J-1 of this subpart for borrowers who submit a new application, to attempt to find the combination of loan service programs that will result in a feasible plan for the borrower. Borrowers who request loan servicing and who have disposed of all the FmHA security, including Collection-Only borrowers, will be processed in accordance with subpart B of part 1956 of this chapter. If the borrower's completed application for primary loan servicing includes a request for the Farm Debt Restructure and Conservation Set-Aside Easement Program, as indicated by the borrower's submission of the information required in § 1951.907(f)(2)(x) of this subpart, the County Supervisor will determine if the borrower is eligible based on criteria as set forth in exhibit H of this subpart. If the borrower is eligible, the County Supervisor will make an estimate of the inputs needed to permit the DALRS computer program to make the calculations of feasibility of the Conservation Set-Aside Easement. The assumptions used to establish the estimates will be documented in the borrower's case file and will be based on the County Supervisor's knowledge of the borrower's farm, land values, the borrower's repayment ability, and the proposed easement acreage. When the DALRS calculations for restructuring are completed, the borrower will be notified as set forth in paragraph (h) of this section.

(2) When jointly liable individual borrowers have been divorced and one of the individuals has withdrawn from the operation, the State Director will consider upon the recommendation of the County Supervisor, the release of liability for the individual that has withdrawn from the operation provided that conditions of paragraphs (a)(2)(i) through (iv) of this section are met. Any adverse decision under this paragraph is appealable according to subpart B of part 1900 of this chapter.

(i) A divorce decree or property settlement document did not make the withdrawing party responsible for the loan payments.

(ii) The withdrawing party's interest in the security is conveyed to the person with whom the loan will be continued; and

(iii) It can be clearly documented that the person withdrawing does not have any repayment ability for repaying the loan, and does not own any nonessential assets as defined in § 1951.906 of this subpart.

(iv) The State Director completes part 1 and 3 on form FmHA 1965-8, Release from Personal Liability.

(b) *Adverse determination.* (1) If the County Supervisor or approval official determines that the borrower is not eligible for any of the Primary Loan Service Programs or restructuring is not feasible because of debt held by other lenders, the borrower will be advised of mediation or meeting of creditors as provided in paragraph (h)(3) of this section. If mediation or the meeting of creditors does not result in a feasible plan, the borrower will be sent attachments 5 and 6, or 5-A and 6-A, of exhibit A of this subpart, as applicable. These notices list and explain the options available to the borrower.

(2) Borrowers sent notices on or after November 28, 1990, who do not buyout at the net recovery value or who indicate in writing that they do not wish to buyout at the net recovery value, will automatically be considered for debt settlement if the borrower submitted an "Application For Debt Settlement." Any appeal of a primary loan servicing denial will be completed before FmHA begins any further processing of the borrower's Debt Settlement and/or Preservation Loan Service Programs request. Once the appeal is concluded and if the adverse decision on restructuring is upheld, the borrower will be considered for the Debt Settlement and/or Preservation Loan Service Programs. FmHA will complete the processing of the borrower's application for Debt Settlement in accordance with part 1956 of subpart B of this chapter. Homestead Protection and/or Leaseback/Buyback will be processed in accordance with § 1951.911 of this subpart. No acceleration or foreclosure will occur until the appeal process has been completed for servicing and/or debt settlement requests timely submitted under this subpart.

(3) Borrowers who submitted new applications may request a negotiated appraisal in accordance with paragraph (i) of this section if they object to the

FmHA appraisal. Negotiation of the appraisal, if requested by the borrower, will take place before mediation or a voluntary meeting of creditors. If the borrower does not negotiate the FmHA appraisal, the borrower will be given the opportunity to appeal the FmHA appraisal by checking the appropriate block for an appeal on attachment 6-A of exhibit A or attachment 2 of exhibit F of this subpart.

(c) *Eligibility.* The County Supervisor or approval official authorized by § 1951.903(b) of this subpart must find that the borrower who has applied for Primary Loan Service Programs meets all of the following requirements:

(1) The delinquency or financial distress does exist and any delinquency is due to circumstances beyond the control of the borrower due to a reduction in income which reduces the operator's cash flow to a point where outflows exceed inflows, and which causes the need for Primary Loan Service Programs. A reduction of income does not by itself mean that the borrower is eligible. Acceptable circumstances for reductions of income beyond the control of the borrower include:

(i) The reduction in essential income from a non-farm job due to unemployment or underemployment of the borrower-operator or spouse caused by circumstances beyond the borrower's control; or

(ii) Illness, injury, or death of an individual borrower, stockholder, member or partner who operates the farm; or

(iii) Natural disasters, an outbreak of uncontrollable disease, and/or uncontrollable insect damage which caused severe loss of agricultural production that reduced the repayment ability of the borrower so that scheduled payments cannot be made; or

(iv) Economic factors that are widespread and not limited to an individual case, such as high interest rates or low market prices for agricultural commodities as compared to production costs, that reduce the repayment ability of the borrower so that the scheduled payments cannot be made.

(2) The borrower has acted in good faith as defined in § 1951.906 of this subpart.

(3) Borrowers who do not meet the eligibility requirements of this section will be notified of the adverse decision by sending the borrower attachments 5 and 6, or 5-A and 6-A, of exhibit A of this subpart, as appropriate. These notices provide the opportunity to appeal.

(4) Borrowers that have sufficient nonessential assets to bring the FmHA account current are not eligible for assistance under this subpart and will be processed in accordance with § 1951.910 of this subpart.

(d) *FmHA's feasibility determinations.* The County Supervisor must determine:

(1) That the borrower will be able to develop a feasible plan as defined in § 1951.906 of this subpart;

(2) That the loan, if restructured, will result in a net recovery to the Government, during the term of the loan as restructured, that will be equal to or greater than the net recovery value to the Government from involuntary liquidation or foreclosure as calculated in accordance with paragraph (f) of this section. A comparison to net recovery to the Government, however, will not be made when establishing conservation easements under Exhibit H of this subpart.

(e) *Primary loan service programs.* Any FP borrower may request Primary Loan Service Programs described in this subpart at any time. However, borrowers must show that they are not able to pay their debt as scheduled before FmHA will approve Primary Loan Service Programs. FmHA will consider the borrower's other assets in accordance with § 1951.910 of this subpart. Rescheduling, reamortization, consolidation, or deferral may be utilized for any eligible borrower. Existing deferrals must be entered into DALRS as if they were cancelled. Debt writedown will only be used for delinquent borrowers who cannot develop feasible plans of operations without debt writedown.

(1) *Consolidation and rescheduling of OL and EO loans, EE operating-type loans and EM loans made for subtitle B purposes including EM loss loans.* This subsection explains how to consolidate and/or reschedule existing loans, providing the borrower agrees to such actions. When the County Supervisor determines that consolidation and/or rescheduling will assist in the orderly collection of the loan, the County Supervisor should take such action provided all of the following conditions exist:

(i) The borrower meets the eligibility requirements in paragraph (c) of this section;

(ii) Such action is not taken to circumvent FmHA's graduation requirements;

(iii) The borrower's account is not being serviced by the OGC or the U.S. Attorney and there are no FmHA plans to have the account serviced by either of these offices in the near future;

(iv) Loans may be rescheduled or reamortized, as appropriate, to bring the account current or to keep the account from becoming delinquent. A sufficient number of notes including all delinquent notes will be rescheduled to permit the development of a feasible plan of operation;

(v) The borrower will comply with the highly Erodible Land and Wetland Conservation provisions of exhibit M of subpart G of part 1940 of this chapter, if applicable;

(vi) Loans secured by real estate will not be consolidated and/or rescheduled, until the County Supervisor reviews the Government's real estate lien priority and value of security and decides that such an action will be in the best interest of the Government and the borrower. If there are any liens which were not in existence at the time the note was signed, the County Supervisor will ask the OGC for an opinion as to what lien position the Government will have if a new note is taken unless a State supplement authorizing this action has been issued on this subject;

(vii) Only loans of the same type and interest rate will be consolidated;

(viii) EM actual loss loans will not be consolidated;

(ix) The County Supervisor will not consolidate a loan serviced under subpart L of this part with another loan;

(x) Loans that have been deferred under this section will not be consolidated and/or rescheduled during the deferral period;

(xi) Terms of consolidated and/or rescheduled loans are as follows:

(A) Consolidated and/or rescheduled loans will be repaid according to the borrower's repayment ability, but will not exceed 15 years from the date of the consolidation and/or rescheduling action, except:

(B) Repayment of loans solely for recreation and/or nonfarm enterprise purposes may not exceed seven years from the date of the consolidation and/or rescheduling action (the date the new note is signed).

(C) Repayment of EE loans may not exceed 20 years from the date of the original note.

(xii) Interest rates of consolidated and/or rescheduled loans will be as follows:

(A) The interest rate for consolidated and/or rescheduled loans will be the lesser of the current interest rate for that type of loan or the lowest original loan note rate on any of the original notes being consolidated and/or rescheduled. In the case of an OL-limited resource loan, it will be the lesser of the current limited resource OL loan rate or the original note rate. The interest rate for

loans rescheduled but not consolidated will be the lesser of the current interest rate for that type of loan or the original loan note rate.

(B) At the time of the consolidation and/or rescheduling action, OL loans may be assigned a limited resource rate if:

(1) The borrower meets the requirements for the limited resource interest rate, and

(2) A feasible plan cannot be developed at regular interest rates and maximum terms permitted in this section.

(xiii) The original (old) note(s) will be marked "Rescheduled" and stapled to the new rescheduled promissory note and will be filed in the operation file. Copy(ies) for the borrower's(s') case file should be marked and stapled the same and filed in position 2 of the case file. If a transfer is involved, assumption agreement(s) will be marked and stapled with the note(s) and copies filed as indicated above. If part of a note is written down, the written down note will be marked "Rescheduled with Debt Write Down," and will be filed in the operation file.

(xiv) For applications received before November 28, 1990, the amount of outstanding accrued interest more than 90 days overdue and any outstanding protective advances, as defined in § 1965.11(b) of subpart A of part 1965 of this chapter, made on the loan will be added to the principal at the time of consolidation and/or rescheduling (the date the new note is signed by the borrower). Protective advances are not authorized for the payment of prior or junior liens except real estate tax liens. See section II E of exhibit J of this subpart for an explanation of how to schedule payment of interest not more than 90 days overdue; and

(xv) For new applications, the amount of outstanding accrued interest and any outstanding protective advances, as defined in § 1965.11(b) of subpart A of part 1965 of this chapter, made on the loan will be added to the principal at the time of consolidation and/or rescheduling (the date the new note is signed by the borrower) in accordance with the provisions of exhibit J-1 of this subpart. Protective advances are not authorized for the payment of prior or junior liens except real estate tax liens.

(2) *Reamortization of FO, SW, RL, RHF, EE, or EM loans made for real estate purposes.* This subsection explains how the FmHA County Supervisor can reamortize existing loans. When the County Supervisor determines that a reamortization action will assist in the orderly collection of

the loan, the County Supervisor should take such action, provided:

(i) The borrower meets the eligibility requirements of § 1951.909(c) of this subpart;

(ii) Such action is not taken to circumvent FmHA's graduation requirements;

(iii) The borrower's account is not being serviced by the OGC or the U.S. Attorney, and there are no plans to have the account serviced by either of these offices in the foreseeable future;

(iv) A feasible plan for the borrower cannot be developed with the existing repayment schedule. A sufficient number of notes including all delinquent notes will be reamortized to permit the development of a feasible plan of operation;

(v) The borrower will comply with the Highly Erodible Land and Wetland Conservation requirements of exhibit M of subpart G of part 1940 of this chapter, if applicable;

(vi) Loans that have been deferred in this subpart will not be reamortized during the deferral period unless the deferral is cancelled;

(vii) Terms of repayment of reamortized loans are as follows:

(A) Reamortized installments usually will be scheduled for repayment within the remaining time period of the note or assumption agreement being reamortized. If repayment terms are extended, the new repayment period may not exceed 40 years from the date of the original note or assumption agreement or the useful life of the security, whichever is less. RHF loans may not exceed 33 years from the date of the original note or assumption agreement.

(B) The FmHA's lien priority may be affected if the final due date of the original loan is extended. A State supplement will be issued to provide instructions on the effect that a change in the final due date has on security instruments and the actions necessary to retain the Government's lien priority. The State supplement will also include instructions for releasing the original security instrument when a new one is obtained.

(viii) Interest:

(A) The interest rate will be the current interest rate in effect on the date of reamortization (the date the new note is signed by the borrower), or the interest rate on the original Promissory Note to be reamortized, whichever is less. In the case of a limited resource loan, it will be the limited resource FO or SW loan rate or the original loan note rate, whichever is less.

(B) At the time of the reamortization, an FO or SW loan may be changed to a limited resource interest rate if:

(1) The borrower meets the requirements for a limited resource interest rate, and

(2) A feasible plan cannot be developed at regular interest rates and at the maximum terms permitted in this section.

(C) For applications received before November 28, 1990, the amount of accrued interest more than 90 days overdue and any protective advances, as defined in § 1965.11(b) of subpart A of part 1965 of this chapter charged to the borrower's account, will be added to the principal at the time of the reamortization action (the date the new note is signed by the borrower). Protective advances are not authorized for the payment of prior or junior liens except real estate tax liens. If there are no deferred installments, the first installment payment under the reamortization will be at least equal to the interest amount which will accrue on the new principal between the date the Form FmHA 1940-17 is processed and the next installment due date. See section II E of exhibit J of this subpart for an explanation of how to schedule payments of interest not more than 90 days overdue. For new applications, the amount of outstanding accrued interest and any outstanding protective advances made on the loan will be added to the principal at the time of reamortization (the date the new note is signed by the borrower) in accordance with the provisions of exhibit J-1 of this subpart.

(ix) The original (old) note(s) will be marked "Reamortized" and will be stapled to the new promissory note and filed in the operational file. Copies for the borrower(s) case file should be marked and stapled the same and filed in position 2 of the case file. If a transfer is involved, assumption agreement(s) will be marked and stapled with the note(s) and copies filed as indicated above. If a part of a note is written down, the written down note will be marked "Reamortized with Debt Writedown" and will be filed as indicated above in this paragraph.

(3) *Deferral of existing OL, FO, SW, RL, EM, EO, RHF, and EE loans*—(i) *Loan deferrals.* Deferrals will be considered by FmHA only after it has been determined that consolidation, rescheduling, and reamortization, in accordance with this subpart, will not provide a feasible plan.

(ii) *Conditions.* In order to be considered for a deferral, the borrower must meet both of the following conditions:

(A) The need for the deferral must be temporary. To be "temporary" means that the borrowers will be able to show to the satisfaction of FmHA that they will be able to resume payment on the debt by the end of the deferral period, or the new payments, as established by using consolidation, rescheduling, or reamortization can be resumed at the end of the deferral period; and

(B) Continuation of loan payments as presently scheduled without change, will unduly impair the borrower's standard of living. An unduly impaired standard of living is a condition whereby the borrower, due to circumstances beyond the borrower's control, is unable to pay essential family living expenses (partnerships, joint operators, corporations, and cooperatives do not have family living expenses), pay normal farm operating expenses, including reasonable and customary hired labor and/or salary paid to the operator(s) of a partnership, a joint operation, a corporation, or a cooperative, maintain essential chattels and real estate, and meet the scheduled payments of all debts.

(iii) *FmHA's determinations.* The FmHA approval official must:

(A) Determine that the borrower meets the eligible requirements of § 1951.909(c) of this subpart;

(B) Determine that a deferral of payments is necessary and appropriately document the conditions causing the need for deferral;

(C) If a borrower owns 50 acres or more of marginal land as defined in exhibit G of this subpart and a feasible plan cannot be developed after consideration of a deferral, the County Supervisor will inform the borrower about the Softwood Timber (ST) loan program authorized by exhibit G of this subpart by sending Attachment 1 of exhibit G of this subpart by certified mail, return receipt requested, within 5 days after the adverse deferral determination. If the borrower requests the County Supervisor to determine that an ST loan may allow the borrower to continue to farm, within 15 days of the borrower's receipt of attachment 1, the County Supervisor will determine if the borrower is eligible, based on criteria as set forth in exhibit G of this subpart. If the borrower is eligible the County Supervisor will help the borrower to develop a plan to determine if a feasible operation can be developed utilizing this program. The discussion will be documented in the borrower's case file.

(iv) *FmHA loan deferral considerations.* The County Supervisor will assist the borrower in completing a typical-year plan. If there is no typical

year, the County Supervisor will assist the borrower with completing a plan of operation for each year of the deferral. The plans must be considered in DALRS.

(A) A sufficient number of loans must be considered for deferral to permit the borrower to have a feasible plan.

(B) A deferral plan may include a reorganization of the farming operation, including the use of new enterprises, to overcome existing financial, economic or other limitations of the operation. If the proposed restructuring requires capital expenditures, a subordination or additional loan will be considered. Deferral of additional loan installments beyond those needed to allow the borrower to develop a feasible plan will not be used to create additional cash reserve for capital purchases. Such purchases are not considered operating expenses.

(C) A typical year during the deferral period is a year which most closely represents the borrower's average operation for the entire deferral period. There may be no typical year for farming or ranching operations undergoing a major reorganization. If there is no typical year, then it will be necessary to develop a plan of operation for each year of the deferral. The plans must be considered in DALRS to determine if each plan is feasible.

(D) The deferral of loan installments is not intended to create a high net cash reserve where revenue substantially exceeds expenses. If the deferral of a complete note would cause a high net cash reserve during the entire deferral period, a full deferral should not be granted. In such a case, a partial deferral should be considered to obtain a feasible plan of operation. The same approach should be used for situations in which there is no typical year and debt payments must vary throughout the deferral period.

(E) The borrower must have feasible plans of operation to support any deferral request. Plans of operation in conjunction with loan deferrals must be realistic and supported by the borrower's actual records.

(v) *Additional and subsequent deferrals.* If, during the period of the initial deferral, the borrower is unable to make the scheduled payments, the borrower may again request primary loan service actions. When considering primary servicing actions, existing deferred notes must be entered into DALRS as if they had not been deferred. If it is necessary to defer additional loans to develop a feasible plan, such action will be taken if the deferral will result in a greater net recovery to the Government than debt writedown. Borrowers may obtain subsequent

deferrals after the deferral period provided the conditions of this subsection are met.

(vi) *Term and interest rate.* A deferral period will not exceed five (5) annual installments. Deferral interest rates will be determined as specified in paragraphs (e)(1)(xii) and (e)(2)(viii) of this section.

(A) All loans being deferred will be consolidated, rescheduled or reamortized, as applicable. The promissory note rescheduled, reamortized or consolidated for the deferral will show "zero" as the installments due during the period of the deferral if the whole note is deferred and will not be changed during the deferral period unless the conditions of paragraph (e)(3)(v) of this section are met. The County Supervisor will determine the amount of interest that will accrue during the deferred period. This interest will be repaid in equal amortized installments during the term of the loan remaining after the deferral period. The calculated installments will be added to the remaining installments for the remaining principal balance and inserted on the promissory note as a scheduled installment for the remaining period of the loan. The Finance Office will apply the payments made on the note in accordance with subpart A of this part. For applications received before November 28, 1990, the amount of outstanding accrued interest more than 90 days overdue and any outstanding protective advances, as described in § 1965.11(b) of subpart A of part 1965 of this chapter, made on the loan will be added to the principal at the time of the deferral (the date the new note is signed by the borrower). Protective advances are not authorized for the payment of prior or junior liens except real estate taxes. See section II E of exhibit J of this subpart for an explanation of how to schedule payment of interest not over 90 days overdue. For new applications, the amount of outstanding accrued interest and any outstanding protective advances made on the loan will be added to the principal at the time of deferral (the date the new note is signed by the borrower).

(B) The FmHA field office will process the deferral via the FmHA field office terminal system in accordance with Form FmHA 1940-17. The FmHA Finance Office will remove the borrower's name from the delinquency report.

(C) If a deferral is approved, the borrower's name and the date of approval will be recorded and maintained in accordance with subpart A of part 1905 of this chapter (available in any FmHA office). The Finance Office

will provide the County Office with a quarterly status report for each borrower who has received a deferral.

(D) Six months prior to the end of the deferral period the County Supervisor will notify the borrower in writing of the expiration of the deferral and the amount and date of the borrower's first upcoming installment of the FmHA debt.

(E) The County Supervisor must notify the Finance Office of any cancellation of a deferral by letter.

(vii) *Increase in repayment ability.* At the time the County Supervisor makes the analysis required by § 1924.60 of subpart B of part 1924 of this chapter, the County Supervisor will determine whether the borrower has had an increase in income and repayment ability. If an income increase is substantial enough to enable the borrower to graduate, the case will be handled in accordance with subpart F of part 1951 of this chapter. If an increase would enable the borrower to make some payments during the deferral period, the County Supervisor will, in writing, ask the borrower to sign a Form FmHA 440-9, "Supplementary Payment Agreement," within 30 days of the date of the written request. The letter will provide the borrower with the right to appeal as set forth in subpart B of part 1900 of this chapter. When doing the analysis to determine whether there is a substantial increase in income and repayment ability, the County Supervisor will determine whether this increase exists by comparing it to the original plan developed in the deferral application and also to plans developed for the current operating year to determine that the excess income is not needed for essential living and operating expenses or scheduled debt payment. If the borrower does not sign a Form FmHA 440-9 or appeal the request for a supplement payment within the required time, and/or does not honor the terms and conditions of the repayment agreement, such actions will be considered abuse of the program. The borrower's account will be handled as set forth in § 1951.907(e) of this subpart.

(4) *Writedown of FmHA loans.* The following conditions shall be met in order for a borrower to get writedown of FmHA loans:

(i) No other Primary Loan Service Program including deferral nor any combination thereof will produce a feasible plan that will permit the borrower to continue the operation;

(ii) A borrower who submits a new application has a lifetime limit of either one writedown or one buyout. Any writedown received on an application submitted before November 28, 1990,

will not be counted towards this one-time limit. In addition, any writedowns received through bankruptcy are not included in the lifetime limit.

(iii) A borrower who submits a new application has a lifetime limit of \$300,000 for a writedown and/or a buyout. The amount of any writedown or buyout which has resulted from any application(s) submitted before November 28, 1990, will not be counted towards the \$300,000 limit. In addition, the \$300,000 limit does not include any writedown received in bankruptcy, debt settlement, or conservation easements. This limitation is subject to the one-time limit in paragraph (e)(4)(ii) of this section.

(iv) A feasible plan, as defined in § 1951.906 of this subpart, must be developed that will result in a present value of loans to be repaid to the Government which is equal to or more than a net recovery from an involuntary liquidation or foreclosure;

(v) The borrower must comply with the Highly Erodible Land and Wetland Conservation requirements of exhibit M of subpart G of part 1940 of this chapter, if applicable;

(vi) The borrower must agree to a Shared Appreciation Agreement if the loan(s) is secured by real estate;

(vii) Loans written down with the Primary Loan Servicing Programs will be rescheduled, reamortized, or deferred in accordance with paragraph (e) of this section; and

(viii) Borrower must agree to a lien on certain assets as provided in § 1951.910 of this subpart, including nonessential assets where the NRV of these assets was not paid to FmHA. The FmHA lien will be taken only at the time of closing the restructured FmHA loans.

(f) *Determining value of net recovery from involuntary liquidation.* Within 90 days of the County Supervisor's receipt of a complete application which requests Primary and Preservation Loan Service Programs, the County Supervisor must make the calculations required in this section. For new applications as defined in § 1951.906 of this subpart, nonessential assets will be considered in accordance with § 1951.910(a) of this subpart.

(1) The County Supervisor will use the computer program, DALRS, to determine the net recovery to the Government equivalent to involuntary liquidation of the collateral securing the FmHA debt in accordance with exhibit J or J-1 of this subpart, "Debt and Loan Restructuring System," as applicable, and will follow the guidance provided by State supplements and exhibit I of this subpart, "Guidelines for Determining Adjustments for Net Recovery Value of

Collateral." The County Supervisor will determine the current market value of the collateral in the borrower's possession including tangible property in existence and of record in accordance with subpart A of part 1809 of this chapter (FmHA Instruction 422.1) for real estate property, and on Form FmHA 440-21, "Appraisal of Chattel Property" (available in any FmHA office). The County Supervisor also will determine the current market value of any bank accounts, stocks and bonds, certificates of deposit and the like pledged to and/or in the possession of FmHA. Collateral may include real estate, chattels, tangible property and property such as bank accounts, stocks and bonds, certificates of deposit, and the like. Chattels include machinery, equipment, livestock, growing crops, and crops in storage. Tangible property may include accounts receivable (including Government payments), inventories, supplies, feed, etc. From the current market value of the collateral in the borrower's possession, or pledged to and/or in the possession of FmHA (in the case of bank accounts, stock and bonds, certificates of deposit, and the like), the following adjustments will be made:

(i) Subtract the amount which would be required to pay prior liens on the collateral;

(ii) Subtract taxes and assessments, depreciation, management costs, and interest cost to the Government based on the 90-day Treasury Bills (published in exhibit B of FmHA Instruction 440.1, available in any FmHA office). Taxes and assessments, depreciation, management costs, as well as interest costs will be calculated on the current market value of the property for the average inventory holding period. The holding period for suitable inventory farm property will be established by each State as of July 1 each year using FmHA Report Code 597. The months that the suitable property is under lease will not be included in determining the average holding period for purposes of this subpart;

(iii) Adjust the current market value for estimated increases or decreases in value of the property for the holding period specified in paragraph (f)(2) of this section;

(iv) Subtract resale expenses, such as repairs, commissions, and advertising;

(v) Other administrative and attorney's expenses;

(vi) Add income which will be received after acquisition; and

(vii) For a borrower who submits a "new application" as defined in § 1951.906 of this subpart, add the value of any collateral that is not in the

borrower's possession and that has not been approved on the Form FmHA 1962-1 or released in writing by FmHA, minus the value of any prior lienholder's interest. Collateral not in possession of the borrower is defined as any property specified in any FmHA security instruments for such borrower's FmHA debt that the borrower has disposed of and that FmHA has not approved or released in writing. The value of normal income security not in possession of the borrower will not be added to the NRV if it could be post-approved for release in accordance with § 1962.17 of subpart A of part 1962 of this chapter. The value of any collateral that is not in the possession of the borrower will be determined by the County Supervisor based upon the best information available about the value of the collateral on or about the time of its disposition. In determining the value of such property, FmHA will use such sources as the publications' Hotline (Farm Equipment Guide) and Official Guide (Tractor and Farm Equipment), sale prices at local public auctions, public livestock sale barn prices, comparable real estate sales, etc. FmHA appraisal forms will be used to record the value of the missing collateral and the basis for the valuation.

(2) The State Directors will determine costs of involuntary liquidation of collateral for farm loans by analyzing the costs of involuntary liquidation within the geographic areas of their jurisdiction. State Directors also will issue a State supplement of estimated costs and average holding time to be used as guidelines by County Supervisors in making calculations of net recovery value under this subsection. Such cost analyses will be carried out in July of each year. State Directors will consult with State Directors of adjoining States, other lenders, real estate agents, auctioneers, and others in the community to gather and analyze the information specified in this subpart.

(g) *Determining net recovery value resulting from primary servicing.* The value of the restructured debt will be based on the present value of payments the borrower would make to the FmHA using any combination of primary loan service programs that will provide a feasible plan. Present value is a calculation concept which assigns a lower current value to dollars received in later years than to dollars received at the present time. County Supervisors will use a discount rate based on 90-day Treasury Bills as of the date the borrower files the application for restructuring. The National Office will

publish the 90-day Treasury Bill rate in exhibit B of FmHA Instruction 440.1 (available in any FmHA office).

(h) *Notification requirements.* In those instances where the applicable notice is sent certified mail, and the certified mail is not accepted by the borrower, the County Supervisor will immediately send the documents from the certified mail package to the borrower's last known address, first class mail. The appropriate response time will commence 3 days following the date of mailing.

(1) *Offer.* If the calculations show that the value of the restructured debt is greater than or equal to the NRV as determined in paragraph (f) of this section, the County Supervisor will forward to the State Director the borrower's Farm and Home Plan and the original printout of the DALR\$ calculations. The County Supervisor will certify that the borrower meets all requirements for debt restructuring with the writedown amount specified on the printout. The State Director's authorization to the County Supervisor to proceed with the writedown will be evidenced by the State Director's signature affixed to the original copy of the DALR\$ printout returned to the County Supervisor. Within 90 days after receiving a complete application, the County Supervisor will notify the borrower of the results of the calculations by sending exhibit F of this subpart, certified mail, return receipt requested, and offer to restructure the debt. A printout of the DALR\$ calculations will be attached to exhibit F of this subpart.

(i) Exhibit F of this subpart will inform the borrower(s) of FmHA's offer to restructure the debt or appeal such offer, the right to request a copy of the FmHA appraisal, and other options which may include payment of nonessential assets and negotiation of the appraisal. If the borrower accepts the offer within 45 days following any appeal, the County Supervisor will restructure the debt within 45 days after receipt of the written notice of the borrower's acceptance.

(ii) If the borrower does not respond to exhibit F within 45 days, or declines FmHA's offer to restructure the debt without requesting an appeal or negotiation, the County Supervisor will send attachments 9 and 10, or 9-A and 10-A of exhibit A of this subpart, as applicable. If the borrower requests an appeal by returning attachment 2 of exhibit F of this subpart and loses the appeal, attachments 9-A and 10-A will not be sent until the borrower is given the opportunity to accept the original offer within 45 days following the final

appeal decision. These borrowers will not have an additional opportunity to appeal the offer in attachments 9-A and 10-A. If attachment 10 or 10-A is not returned within 30 days of the borrower's receipt of the attachments, the account will be accelerated or foreclosed in accordance with § 1955.15 of subpart A of part 1955-A of this chapter.

(iii) If the borrower submitted a new application and requests a negotiated appraisal within 30 days of receiving exhibit F, the negotiation of the appraisal will be completed in accordance with paragraph (i) of this section.

(A) After completing a negotiation of the appraisal, if the debt can be restructured, the County Supervisor will send exhibit F to the borrower making the new offer in accordance with paragraph (h)(1)(i) of this section.

(B) If the negotiated appraisal changes the DALR\$ calculations so that the debt cannot be restructured, the borrower will be sent exhibit E, "Notification of Request For Mediation or Meeting of Creditors and Other Options," in accordance with paragraph (h)(3) of this section. The appraisal cannot be negotiated again and is not subject to appeal.

(2) *Conservation easement.* If the borrower previously returned attachment 2 or 4 to exhibit A of this subpart within 60 days, requesting a Farm Debt Restructure and Conservation Set-Aside Easement Program, by submitting an ASCS photo of the farm showing the portion of the farm and approximate acres to be considered in their request, the County Supervisor will proceed with processing the request for debt relief. The request will be processed as set forth in exhibit H of this subpart. If the borrower did not previously submit a request for this servicing action, the borrower can make a request for the easement at this time by submitting the ASCS photo indicating that portion of the farm and appropriate acres to be considered. The borrowers must submit the ASCS photo to FmHA within 30 days of receiving exhibit E of this subpart.

(3) *Mediation/voluntary meeting of creditors.* If the DALR\$ calculations indicate a feasible plan of operation cannot be developed considering all Primary Loan Service Programs, Softwood Timber, or Conservation Set-Aside Easement Programs, the County Supervisor will take the following actions within 15 days from the date of the determination that the borrower's debt cannot be restructured as requested:

(i) Exhibit E, "Notification of Request For Mediation or Meeting of Creditors and Other Options," of this subpart will be sent to the borrower in all cases by certified mail, return receipt requested. A printout of the DALR\$ calculations will be attached to exhibit E of this subpart.

(A) When the borrower is in a State with a USDA Certified Mediation Program, paragraph I in exhibit E will be used. Paragraph I tells the borrower that FmHA is requesting mediation with the borrower's creditors in an effort to obtain debt adjustment which would permit the development of a feasible plan of operation. If the borrower submitted a new application, the borrower must respond to exhibit E of this subpart if the borrower wants to negotiate the FmHA appraisal in accordance with paragraph (i) of this section. The borrower may request a copy of the FmHA appraisal. FmHA must participate in USDA Certified Mediation Programs whether or not the borrower responds to exhibit E of this subpart. Any negotiation of the FmHA appraisal must be completed prior to any mediation.

(B) In States without a certified mediation program, exhibit E of this subpart will be sent by certified mail, return receipt requested, to inform the borrower about the applicable options which may include a request for a copy of the FmHA appraisal, a meeting of creditors, payment of nonessential assets, negotiation of the appraisal and a request for an independent appraisal. Paragraph I of exhibit E of this subpart will be deleted. The purpose of the voluntary meeting of creditors is to develop a feasible plan. Paragraph II of exhibit E of this subpart, therefore, will be used to offer a voluntary meeting of creditors when the borrower has undersecured creditors who hold a substantial part of the borrower's total debt. A "substantial part of the borrower's total debt" means that the debt of the undersecured creditors is large enough so that if it were written down to zero, a feasible plan could be developed considering all primary servicing options. The County Supervisor will document such determination in the case file, and the County Supervisor will not offer to carry out a voluntary meeting of creditors when the undersecured debt is not a substantial part of the borrower's total debt. Such borrower will be informed later of additional rights, including appeal rights, when FmHA sends attachments 5 and 6, or attachments 5-A and 6-A, of exhibit A of this subpart. Any appeal may challenge FmHA's

determination not to offer a voluntary meeting of creditors because the undersecured debt is not a substantial part of the borrower's total debt.

(C) Any negotiation of the FmHA appraisal must be completed prior to the meeting of creditors or mediation. If the borrower does not request any of the options offered in exhibit E of this subpart within 45 days, the County Supervisor will send attachments 5 and 6, or 5-A and 6-A of exhibit A of this subpart, as applicable, certified mail, return receipt requested.

(ii) If mediation or the voluntary meeting of creditors is held but is not successful, the borrower will be sent attachments 5 and 6, or 5-A and 6-A, of exhibit A of this subpart, as applicable, certified mail, return receipt requested, within 15 days of the unsuccessful mediation or meeting. The DALRS computer printout will be attached to attachment 5 or 5-A of exhibit A of this subpart.

(4) *Net recovery buyout.* The following notification and processing provisions also apply to buyout as offered in attachments 5 and 5-A of exhibit A of this subpart.

(i) Borrowers who applied for Primary and Preservation Loan Service Programs before November 28, 1990, have 45 days after the receipt of the notification of ineligibility for Primary Loan Service Programs to buyout their loans at NRV. Eligible borrowers who submit new applications will have 90 days after the receipt of the notification of ineligibility for Primary Loan Service Programs to buyout their loans at NRV.

(ii) The present value of the restructured loan must be less than the NRV to receive buyout.

(iii) FmHA will not provide insured or guaranteed credit for a buyout.

(iv) A borrower who submits a new application has a lifetime limit of either one writedown or one buyout. Any writedown received on an application submitted before November 28, 1990, will not be counted towards this one-time limit. In addition, any writedowns received through bankruptcy are not included in the lifetime limit. A borrower who submits a new application has a lifetime limit of \$300,000 for either a writedown, or a buyout. The amount of any writedown or buyout which has resulted from any application(s) submitted before November 28, 1990, will not be counted towards the \$300,000 limit. The \$300,000 limit does not include any writedown received in bankruptcy, debt settlement or conservation easements. The \$300,000 limit is subject to the one-time limit of this paragraph. For example, if a borrower receives a writedown of less

than \$300,000 on a new application in a nonbankruptcy situation, the borrower will not be eligible for another writedown or buyout in any amount thereafter.

(v) The borrower must have acted in good faith as defined in § 1951.906 of this subpart.

(vi) Prior to the buyout at NRV, the borrower who has real estate security must, as a condition of the sale, enter into a written recapture agreement covering all real estate security. Borrowers who applied for Primary and Preservation Loan Service Programs before November 28, 1990, will execute exhibit C of this subpart, "Net Recovery Buyout Recapture Agreement," for a term of 2 years. Borrowers who submitted new applications will execute exhibit C-1 of this subpart, "Net Recovery Buyout Recapture Agreement," for a term of 10 years.

(vii) The County Supervisor will process the net recovery buyout payment to the borrower's loan accounts on Form FmHA 451-2, "Schedule of Remittance," as a miscellaneous collection and will input the information to establish an equity record via the FmHA field office computer terminal system.

(viii) A new mortgage or deed of trust will be taken for the best lien obtainable on the real estate that served as security for the FmHA loans. The new mortgage or deed of trust will describe exhibit C or C-1, as appropriate, and the amount due under the net recovery buyout recapture agreement. The new mortgage or deed of trust will secure repayment of the net recovery buyout recapture agreement.

(ix) The old mortgage or deed of trust will be released in accordance with paragraph (k) of this section.

(x) The County Supervisor will obtain the State Director's authorization for the writeoff of the debt for the buyout in accordance with paragraph (h)(1) of this section for the writedown of debt.

(i) *Administrative appeals and negotiation of appraisals—(1) Appeals.* The time limit for the borrower to pay FmHA NRV of the security as set out in paragraph (h)(4) of this section will start on the day the borrower receives the final appeal or review decision upholding the initial decision. Such appeal decision letter will be sent to the borrower by the hearing officer or review officer by certified mail, return receipt requested. The return receipt is to be sent to the address of the County Office which services the loans by the hearing and/or review officer.

(2) *Appeal process.* (i) If the administrative appeal process results in a determination that the borrower is

eligible for Primary Loan Servicing, the County Supervisor will process the request pursuant to section 1900.59(d) of subpart B of part 1900 of this chapter in accordance with the appeal/review officer's decision within 60 days of receiving the decision. The information used to implement the appeal officer's decision will be the information the appeal officer used in making the decision on the appeal, unless stated otherwise by the appeal officer in the final appeal decision letter. In cases of debt restructure resulting from favorable decisions on appeals, the interest rate will be the lesser of the current rate or the original note rate on the date of the closing of the transaction. However, the debt writedown or writeoff can never exceed the lifetime limit of \$300,000 in accordance with § 1951.909 of this section. If implementation of the appeal officer's decision would cause writedown or writeoff of more than \$300,000 because of interest accrued after the adverse decision, the County Supervisor will take the following steps. The interest that accrued after the adverse decision will be applied to the FmHA debt as a noncash credit. The time period covered by the noncash credit is from the effective date on the DALRS printout for the initial adverse decision to the date of closing of the transaction unless otherwise specified by the appeal officer. The noncash credit will be applied to the accrued interest for this time period for each loan affected by the transaction. The County Supervisor will notify the Finance Office of the noncash credit in accordance with the ADPS manual.

(ii) If the administrative appeal process results in a determination that the borrower is ineligible for Primary Loan Servicing, the borrower will be sent exhibit K and attachment 1 of this subpart, advising the borrower of FmHA's intent to continue processing the application for Preservation Loan Service Programs, as set forth in § 1951.911 of this subpart, and any application for debt settlement that may have been submitted in accordance with subpart B of part 1956 of this chapter. If the borrower does not return attachment 1 of exhibit K of this subpart within 15 days of the date that exhibit K of this subpart is sent, the County Supervisor will continue to process the borrower's request. The account will not be accelerated or foreclosure will not continue until the borrower has the opportunity to appeal any denial of the Preservation Loan Service and any Debt Settlement request. If the borrower returns attachment 1 of exhibit K of this subpart within 15 days of the date

exhibit K of this subpart is sent, the account will be accelerated or foreclosure will proceed in accordance with § 1955.15 of subpart A of part 1955 of this chapter. When the account is accelerated the borrower will not be considered for further loan assistance under § 1941.14 of subpart A of part 1941 of this chapter.

(3) *Appraisal appeals.* (i) If a borrower appeals the current market appraisal completed by FmHA, the borrower may obtain an appraisal by an independent appraiser selected from a list of three names provided by the FmHA County Supervisor. A borrower who submitted a new application may appeal the FmHA appraisal if the borrower has not previously negotiated the appraisal under paragraph (i)(4) of this section. The appeal may be requested by checking the appropriate block on attachments 6-A of exhibit A or attachment 2 of exhibit F of this subpart. The borrower may appeal the current market appraisal, and/or the denial of other issues of Primary Loan Service Programs in which the appraisal, as part of the NRV calculation, is relevant. The cost of the independent appraisal must be paid by the borrower. If possible, the borrower should submit a copy of the independent appraisal to the FmHA County Supervisor and the hearing officer prior to the appeal hearing. The borrower will have access to the case file as set forth in § 1900.56(a)(2) of subpart B of part 1900 of this chapter and may request a copy of the FmHA appraisal. The independent appraisal will be considered by the appeal officer. For those States that have mandatory certification/licensing requirements, the independent appraiser must be a State certified general appraiser.

(ii) For those States that have voluntary certification/licensing requirements not later than December 31, 1992, the independent appraiser must be a State certified general appraiser in accordance with FIRREA. Until that time, the independent appraiser must meet at least one of the following qualifications as determined by the FmHA County Supervisor:

(A) Certification by a National or State Appraisal Society;

(B) If a certified appraiser is not available, the appraiser may be one who meets the criteria for certification in a National or State appraisal society; or

(C) The appraiser has recent, relevant documented appraisal experience or training, or other factors clearly establishing the appraiser's qualifications.

(iii) The appraisal report also must conform to subpart A of part 1809 of this chapter (FmHA Instruction 422.1

available in any FmHA office) for real estate and Form FmHA 422.1 for chattels.

(iv) If either the County Supervisor or the borrower discover any mathematical or property description errors in the appraisal prior to or at the time of the review and comparison of the appraisals the necessary corrections may be made if they both agree to the corrections and initial the corrections. Either the County Supervisor or the borrower, depending upon who discovers the error, must contact the other one for a meeting to approve the corrections.

(v) If the FmHA's appraisal and the borrower's independent appraisal vary in value by not more than five percent, the borrower must select the appraisal he or she wants FmHA to use for the request for servicing under this subpart. This will be the final appraisal. It cannot be appealed.

(4) *Negotiation appraisals.* A borrower who submits a new application may object to an FmHA appraisal used to make a favorable or unfavorable restructuring decision by requesting to negotiate the appraisal. Negotiation of appraisals is offered in exhibits E and F of this subpart as discussed in subsection (h) of this section. Such borrower may negotiate the FmHA appraisal only one time. All appraisals used in the negotiations must reflect the value of the property as of the same timeframe of the FmHA initial appraisal. If either the County Supervisor or the borrower discover any mathematical or property description errors in the appraisal prior to or at the time of the review and comparison of the appraisals the necessary corrections may be made if they both agree to the corrections and initial the corrections. Either the County Supervisor or the borrower, depending upon who discovers the error, must contact the other one for a meeting to approve the corrections.

(i) The borrower can request the list of independent appraisers from the County Supervisor on attachment 2 of exhibits E and F of this subpart. The borrower has 30 days after requesting negotiation to provide FmHA with a copy of his or her independent appraisal. The borrower must pay for this independent appraisal. The independent appraiser does not need to be on FmHA's list of qualified appraisers. The borrower's independent appraiser and appraisal report, however, must meet the qualifications described in paragraph (i)(3)(ii) of this section. If the FmHA's appraisal and the borrower's independent appraisal vary in value by not more than five percent, the borrower must select the appraisal he or she wants to use for the request

for servicing under this subpart. This is the final appraisal. It cannot be further negotiated or appealed.

(ii) After receiving the borrower's independent appraisal, the FmHA County Supervisor will give the borrower a list of qualified, independent appraisers from which to select an appraiser for the third appraisal if the borrower's independent appraisal differs from the FmHA appraisal by more than five percent. The borrower will select one appraiser from the FmHA approved list of qualified appraisers to conduct the third appraisal. The appraiser cannot be the same appraiser that conducted either the FmHA appraisal or the borrower's independent appraisal. The appraiser also must meet the qualifications set out in paragraph (i)(3) of this section. The borrower, the appraiser and the FmHA County Supervisor will complete and sign the Appraisal Agreement (attachment 3 of exhibit F of this subpart). The appraiser will be sent a copy of the appraisal standards, FmHA Instructions 422.1 for real estate and Form FmHA 440-21 for chattels. The borrower will submit to the County Supervisor the original or a copy of the third appraisal and its attachments and the appraiser's bill. The FmHA payment will be processed for FmHA's one-half share of the cost as a nonrecoverable cost in accordance with the provisions of FmHA Instruction 2024-P (available in any FmHA office). The borrower is responsible for paying the appraiser directly the remaining one-half of the cost of the appraisal.

(iii) Following the completion of the third appraisal, the three appraisals (the FmHA appraisal, the borrower's independent appraisal and the third appraisal done for negotiation) will be compared by the County Supervisor. The two appraisals that are the closest in value will be averaged by the County Supervisor. These appraisals may be reviewed by the borrower, if requested, and the average value will become the final appraised value. If the borrower or the County Supervisor discover any mathematical or property description errors in the appraisals at the time of the review, the necessary corrections may be made in accordance with paragraph (i)(3) of this section.

(j) *Processing of writedown.* Borrowers who are eligible for Primary Loan Service Programs with writedown will have their loans rescheduled or reamortized in accordance with this subpart. All loan servicing actions approved in connection with the writedown must take place simultaneously. The borrower and County Supervisor will complete exhibit

D to this subpart, "Shared Appreciation Agreement." Exhibit D provides for recapture as specified in § 1951.914 of this subpart of a portion of any appreciation in the value of the real property securing the debt remaining after the writedown. The FmHA DALRS computer program will be used to determine the notes to be written down.

(1) A separate Form FmHA 1940-17, "Promissory Note," will be used for each note or assumption agreement being reamortized.

(2) A Form FmHA 1940-17 will be completed, signed, and distributed as provided in the FMI.

(3) The loan servicing action date of approval is also the date that will be inserted on the rescheduled or reamortized Form FmHA 1940-17 in accordance with the provisions in the ADPS manual when establishing an equity record.

(4) A Form FmHA 1940-17 may be processed provided the County Office has possession of the original note being reamortized. If the County Office does not have possession of the original note, the County Supervisor will ask the FmHA Finance Office to return the original note so that it is in the County Office before Form FmHA 1940-17 is processed.

(5) The FmHA field office will process the reamortization or consolidation via the FmHA field office computer terminal system in accordance with Form FmHA 1940-17, and complete exhibit D of this subpart.

(6) The original (old) note(s) will be marked "Rescheduled or Reamortized with Writedown Debt" and stapled to the new rescheduled or reamortized promissory note(s) and will be filed in the promissory note file in the operation file. Copies for the borrower(s) case file should be marked and stapled the same and filed in position 2 of the case file. If a transfer is involved, assumption agreement(s) will be marked and stapled with the note(s) and copies will be filed as indicated above.

(7) A lien will be taken on assets in accordance with § 1951.910 of this subpart.

(k) *Real estate liens.* If the writedown of the borrower's real estate debt results in all debts to FmHA being written down, FmHA real estate liens will be maintained and will not be subordinated to increase the amount of the prior liens during the shared appreciation period. Shared appreciation agreements will be serviced in accordance with § 1951.914 of this subpart. Upon payment by the borrower of net recovery in a buyout, the original mortgage or deed of trust will be released on real estate for the FmHA loans bought out. The notes will

be marked "Satisfied at Net Recovery Value" and returned to the debtor or the debtor's legal representative. Net recovery buyout recapture agreements will be serviced in accordance with § 1951.913 of this subpart.

(l) *Non-real estate liens.* If a borrower's FmHA loan(s) were not secured by real estate, there will be no recapture and the borrower will not be required to enter into a recapture agreement. Upon payment by the borrower of the NRV in a buyout, the original security instruments will be released on chattel security for the FmHA loans bought out. These notes will be marked "Satisfied at Net Recovery Value" and returned to the debtor or the debtor's legal representative.

(m) *Notes.* Notes evidencing debts written off as a result of Primary Servicing debt writedown or buyout at NRV will be returned to the debtor or to the debtor's legal representative. The notes will be returned at the end of any recapture period. If there is no recapture period, the notes will be returned when the County Office verifies that the transaction has been recorded in the Finance Office. For a buyout, the original and copies of the notes will be marked "Satisfied by Approved Net Recovery Buyout." For writedown, the original and copies of the notes will be marked "Satisfied by Approved Debt Writedown." If a note is only partially written-down, the note will be returned to the debtor or debtor's legal representative when the note is paid in full. The original and copies of such notes will be marked "Satisfied by Approved Partial Writedown."

§ 1951.910 Consideration of borrower's other assets for NEW APPLICATIONS.

If the County Supervisor finds that a delinquent borrower has other assets that are not serving as collateral for the FmHA debt, the County Supervisor will determine if the assets are nonessential assets as defined in § 1951.906 of this subpart.

(a) *Nonessential assets.* The net recovery value (NRV) of nonessential assets must be considered when the borrower's application is processed for loan servicing in accordance with this subpart. FmHA will not write down or write off any debt or portion of a debt that could be paid by liquidation of nonessential assets, or by payment of the loan value of the assets that could be received from non-FmHA sources. The loan value of the assets will be considered as the same as the NRV of the assets.

(1) *Determining the value of nonessential assets.* The NRV of the

nonessential assets is the market value less any prior liens and any selling costs which may include such items as taxes due, commissions and advertising costs. The determination of NRV of nonessential assets does NOT include a deduction for carrying the property in FmHA inventory. The market value of the nonessential assets must be estimated by a current appraisal in accordance with subpart A of part 1809 of this chapter (FmHA Instruction 422.1, available in any FmHA office) for real estate property, and on Form FmHA 440-21, "Appraisal of Chattel Property," (available in any FmHA office) for chattels. If the borrower disagrees with the FmHA appraisal, the borrower may request a negotiated appraisal or appeal in accordance with § 1951.909(i) of this subpart.

(2) *Eligibility.* If the NRV of the nonessential assets is sufficient to bring the delinquent FmHA account current, the borrower is not eligible for primary loan servicing including buyout in accordance with this subpart. The borrower, instead, will be sent attachments 5-A and 6-A of exhibit A of this subpart. The County Supervisor will indicate the values of both the NRV of nonessential assets and FmHA security on attachment 5-A. The borrower's nonessential assets and their NRVs also will be listed on attachment 5-A. The borrower will have 90 days to bring the FmHA account current from the date of the receipt of attachments 5-A and 6-A. If the borrower does not pay current within this time period, the account will be accelerated after all appeal rights have been exhausted. If the NRV of the nonessential assets is not sufficient to bring the FmHA account current, then the nonessential assets will be considered as set out in paragraph (a)(3) of this section.

(3) *Inclusion in NRV.* If the NRV of the nonessential assets is not sufficient to bring the FmHA account current, then FmHA will add the NRV of these assets to the NRV of the FmHA collateral according to § 1951.909(f) of this subpart. FmHA will encourage, but not require the borrower to liquidate those nonessential assets and apply the proceeds to his/her outstanding debts. If the borrower liquidates the nonessential assets, or obtains a loan against the equity in such assets, and pays FmHA the NRV of the nonessential assets within 45 days of receiving exhibit E or F of this subpart, as appropriate, the payment will be subtracted from the FmHA debt and then FmHA will recalculate the debt restructuring without considering the NRV of the nonessential assets. If the borrower

does not sell these assets, FmHA will include their NRV in calculating the debt restructuring and take a lien on the assets at the time of closing the restructured loan.

(b) *Lien on certain assets.* Delinquent borrowers must pledge certain assets, essential and nonessential, unencumbered to FmHA as security in accordance with § 1943.19 of subpart A of part 1943, § 1941.19 of subpart A of part 1941 and § 1945.164 of subpart D of part 1945 of this chapter at the time FmHA loans are restructured. These assets will be considered as additional security for the loans as well as the shared appreciation agreement. The value of the essential assets will not be included in the NRV calculation to determine restructure. The FmHA lien will be taken only at the time of closing the restructured FmHA loans.

§ 1951.911 Preservation Loan Service Programs.

(a) *Leaseback/buyback.* This section contains the policies and procedures pertaining to the FP Leaseback/Buyback Program. The FP Leaseback/Buyback Program will permit the previous owner of real farm and ranch property, including any off-farm principal residence of the former operator, which was security for an FP loan(s) to have the first opportunity to lease or purchase the leaseback/buyback property from FmHA. If FmHA has only chattel property the as security, preservation servicing will not be offered. In addition, any off-farm residence(s) of the former borrower(s) and/or owner(s), who is not the operator(s) of the farm or ranch property, is not considered leaseback/buyback property. If the previous owner is not interested in leasing or purchasing the property, preference for leaseback/buyback will be given to the spouse or child of the previous owner who are actively engaged in farming (if the previous owner was an individual); and entity members (if the previous owner is an entity that is composed exclusively of members of the same family) who are actively engaged in farming; and after them to the immediate previous family-size operator (lessee). CONTACT property that is acquired on or after January 6, 1988, that secured an FmHA loan will be considered for leaseback/buyback under this section. CONTACT property acquired prior to January 6, 1988, will also be considered under this section, but only if the former owner/previous operator was not advised of his or her leaseback/buyback rights under FmHA's previous leaseback/buyback regulation. If there is a conflict between leaseback/buyback and FmHA's Homestead Protection Program, priority

will be given to the application for homestead protection with respect to the lease of the borrower's principal dwelling. The same application may be considered for both leaseback/buyback and homestead protection if requested. The applicant can obtain homestead protection under the Homestead Protection Program and the balance of the farm under the Leaseback/Buyback Program. The authorities contained in this section supplement subparts A, B and C of part 1955 of this chapter and provide information that is necessary to administer the Leaseback/Buyback Program. Inventory property which is located within the boundaries of an Indian reservation of a Federally recognized Indian Tribe and the previous owner is a member of the Indian Tribe that has jurisdiction over the reservation in which such real estate is located is treated differently than real property located outside a reservation. See § 1955.86(d) of subpart B of part 1955 of this chapter for further details.

(1) *Notification.* In those instances where the applicable notice is sent certified mail, and the certified mail is not accepted by the borrower, the County Supervisor will immediately send the documents from the certified mail package to the borrower's last known address, first class mail. The appropriate response time will commence 3 days following the date of mailing.

(i) When a borrower(s) becomes at least 30 days behind schedule on an FmHA loan(s), the borrower will be sent exhibit A with attachments 1 and 2 of this subpart. The sending of this exhibit and attachments will be the notice to the borrower of the availability of Primary and Preservation Loan Service. If a feasible plan for restructuring the borrower's debt cannot be developed using Primary Loan Service Programs, the borrower will be notified of Preservation Loan Service Programs and other servicing options by sending attachments 5 and 6 or 5-A and 6-A of exhibit A of this subpart, as applicable. If a borrower requests an appeal and the adverse decision is not overturned, the borrower does not request an appeal, or fails to pay FmHA the net recovery value of the property, the borrower will be advised by use of exhibit K with attachment 1 of this subpart that FmHA will continue with the processing of Preservation Loan Service Programs, if applicable, unless the borrower returns attachment 1 of exhibit K within 15 days of the date of the exhibit.

(ii) When FmHA acquires real farm and ranch property, including the principal residence of the former

operator, which secured an FP loan, the former owner will be sent exhibit O of this subpart within 30 days from the date of acquisition. The former owner has 180 days from the date FmHA acquired the real farm and ranch property, including any off-the-farm principal residence of the former operator, to apply for leaseback/buyback, unless State laws provide for a longer period. The exhibit will be sent certified mail, return receipt requested. If the former borrower/owner entered into a leaseback/buyback agreement (exhibit N of this subpart) prior to FmHA acquisition of the real property, and such agreement has not terminated, exhibit O will not be sent. The notification letter to an owner who is an individual will inform the owner that if the owner is not interested in leaseback/buyback, the owner's spouse or child, if actively engaged in farming, may be eligible for leaseback/buyback. If the farm or ranch was owned by an entity, the stockholders or partners of which are exclusively members of the same family, the notification letter will inform the owner that if the owner is not interested in leaseback/buyback, the entity members who are actively engaged in farming may be eligible for leaseback/buyback. It will be the responsibility of the owner to inform his or her spouse and/or children or the entity members about their possible participation in the leaseback/buyback program and that they must notify the County Supervisor of their intent to participate in the leaseback/buyback program within 190 days from the date of acquisition unless State redemption laws prescribe a longer period. The notification letter sent to the previous owner will also request the previous owner to notify the County Supervisor if the security was operated by a lessee at the time it was taken into inventory and, if so, to notify the County Supervisor of the name and address of that lessee. If the farm property is located within an Indian Reservation, and the former owner is a member of such Indian tribe, the Indian Tribe will be notified of the potential availability of the farm property for lease or purchase by sending exhibit B of subpart B of part 1955 of this chapter. The Indian tribe will be notified at the same time as the previous owner.

(iii) If the previous owner provides FmHA with the name of the immediate previous operator (lessee), or if the County Supervisor is aware that the property was leased by the owner and knows the name and address of such immediate previous operator (lessee), the operator will be notified of

leaseback/buyback by use of exhibit P of this subpart. This letter will be sent certified mail, return receipt requested. The County Supervisor will send exhibit P of this subpart to the operator (lessee) within 30 days after the 190-day period or applicable period under State redemption laws has expired. The County Supervisor, however, may notify the operator (lessee) prior to the 190-day period after acquisition of the property or applicable period under State redemption laws if the previous owner, spouse and all children (if the former owner was an individual), and entity members (if the former owner was an entity) inform the County Supervisor, in writing, that they are not interested in purchasing or leasing the property. The operator (lessee) will be given 30 days from the date he or she is notified about leaseback/buyback to notify the County Supervisor, in writing, of their intent to participate in leaseback/buyback.

(iv) The rights regarding the lease or purchase of property provided by this section and accorded a person or entity described above may be freely and knowingly waived by such person or entity. Exhibit Q of this subpart will be used by each person or entity that wishes to waive their rights to leaseback/buyback.

(2) **Priority.** (i) FmHA shall give priority for the Leaseback/Buyback Program in the following order:

Priority 1.—The immediate previous owner of the acquired property.

Priority 2.—If actively engaged in farming:

a. The spouse or child of the previous owner if the previous owner was an individual;

b. If the previous owner was an entity, to the entity members of the corporation, partnership, joint operation or cooperative.

Priority 3.—The immediate previous family-size farm operator of the security. (If the farm property is located within an Indian Reservation and the former owner is a member of such tribe, see § 1955.66(d) of Subpart B of Part 1955 of this chapter for leaseback/buyback rights of the Tribe.)

(ii) Within each of the foregoing priorities, if there is more than one individual eligible for leaseback/buyback in any category who has indicated an intention, in writing, to the County Supervisor to participate in the leaseback/buyback program (e.g., one individual wants to purchase and the other individual wants to rent), priority within the category will be given to an individual who wants to purchase all the leaseback/buyback property, either for cash or by credit sale. There is no preference for a cash sale over a credit sale. If there are two or more individuals in the same priority category who are eligible for leaseback/buyback who

both want to purchase (or to lease if no one wants to purchase), the County Committee will make the selection of the lessee and/or purchaser by lot by placing the names in a receptacle and drawing names sequentially. Drawn offers will be numbered and those drawn after the first drawn offer will be held as back-up offers pending sale to the successful offeror. The random selection of the County Committee is not an appealable item for those individuals that are not the successful lessee and/or purchaser.

(iii) If there are individuals in different priority categories who inform the County Supervisor, in writing, of their intention to participate in the leaseback/buyback program, the County Supervisor will first consider the eligibility for leaseback/buyback of individuals in the highest priority in which there is interest before considering individuals in the lower priority. If an individual in a higher priority is eligible, the individuals in the lower priority will be notified by the County Supervisor that an individual with higher priority has been selected. This is not an appealable item.

(iv) The inventory property will not be leased or sold until any appeals are exhausted.

(v) The rights afforded individuals under the Leaseback/Buyback Program will only be offered once after the property comes into FmHA inventory. If a previous owner, previous owner's spouse or child, an entity member (if the previous owner was an entity held exclusively by members of the same family), or immediate previous family-size operator (lessee) leases the property and does not exercise the option to purchase and the lease terminates, no other individuals will be offered the property under the Leaseback/Buyback Program. These individuals, however, may lease or purchase the property when it becomes available for lease or sale in accordance with subparts B and C of part 1955 of this chapter.

(3) **Receiving applications.** (i) Borrowers who return attachment 2 of exhibit A of this subpart and a completed application as outlined in § 1951.907(f) of this subpart will have their applications processed for Primary Loan Service Programs before considering the application for leaseback/buyback. The County Supervisor will automatically consider the borrower for Preservation Loan Service Programs if the use of Primary Loan Service Programs will not allow the borrower to develop a feasible plan of operation.

(ii) Borrowers who return attachment 2 of exhibit A of this subpart must also be the owners of the real property to be considered for leaseback/buyback. Such borrowers will also be advised by attachment 5 or 5-A of exhibit A of this subpart, as appropriate, of the availability of Preservation Loan Service Programs.

(iii) Former owners who wish to make application for leaseback/buyback must make application within 180 days or applicable period under State redemption law after the date FmHA acquires the property. Such application will be made as outlined in § 1951.907(f) of this subpart.

(iv) The spouse or child of a former owner or entity members must make application for leaseback/buyback within 190 days or applicable period under State redemption laws after the date FmHA acquires the property. Such application will be made as outlined in § 1951.907(f) of this subpart.

(v) Operators must make application for leaseback/buyback within 30 days of receipt of exhibit N of this subpart. Such application must be made as outlined in § 1951.907(f) of this subpart.

(4) **Eligibility.** The County Supervisor will determine the applicant's eligibility.

(i) Any applicant for leaseback/buyback who either (1) first applied for primary servicing on or after November 28, 1990, or (2) first applied for leaseback/buyback on or after November 28, 1990, without first applying for primary servicing, and who is also the borrower/former owner, must have acted in good faith as defined in § 1951.906 of this subpart.

(A) If a good faith determination has already been made in connection with the borrower/former borrower's request for primary servicing of his or her loan pursuant to the definition in § 1951.906 of this subpart, such determination will be binding on the borrower/former borrower's request for leaseback/buyback. In such case of a denial of leaseback/buyback when the borrower/former borrower had previously been denied primary loan servicing because of a determination that the borrower/former borrower has not acted in good faith, the denial of leaseback/buyback will not be appealable. NOTE: If the lack of good faith determination was made prior to November 28, 1990, for primary servicing, which was based on the sole fact that the borrower disposed of normal income security before October 14, 1988, without FmHA consent, and it has been determined the proceeds were used for essential household and farm operating expenses of which the borrower would have been

entitled to a release of income proceeds in accordance with § 1962.17(b)(2)(iii) and exhibit E of subpart A of part 1962 of this chapter, such a lack of good faith determination will not be binding for a leaseback/buyback application filed on or after November 28, 1990.

(B) If the borrower/former borrower had not previously been considered for primary servicing and no good faith determination had been previously made, then the County Supervisor will initially determine if the borrower/former borrower acted in good faith, as defined in § 1951.906 of this subpart. Disposal of normal income security prior to October 14, 1988, without FmHA's consent, will not constitute a lack of good faith if the proceeds were used to pay essential household and farm operating expenses and the borrower would have been entitled to a release of income proceeds in accordance with § 1962.17(b)(2)(iii) and exhibit E of subpart A of part 1962 of this chapter.

(ii) The previous owner is the individual(s) or entity that held fee title to the property at the time FmHA acquired the property. The previous owner, as an applicant for leaseback/buyback, may be an operator of larger than a family-size farm and may be a different individual or entity than the former borrower, but the owner must have pledged the farm as security for a CONACT loan.

(iii) The spouse and child of the previous owner (if the previous owner was an individual) are next on the priority list. Child includes the son or daughter of a previous owner of property that has been acquired by FmHA and who is of legal age to enter into a binding contract. The spouse and/or any child who apply for leaseback/buyback must have been actively engaged in farming at the time of application for leaseback/buyback. The applicant may be an operator of larger than a family-size farm.

(iv) Entity members (if the previous owner was an entity) must be members of the entity which is owned exclusively by members of the same family and must have been actively engaged in farming at the time of application for leaseback/buyback. This applicant may be an operator of larger than a family-size farm.

(v) Previous operator must have been the operator (lessee) of the farm property at the time FmHA acquired the farm property from the former owner (lessor) and be an operator of not larger than a family-size farm after execution of any lease or purchase agreement. The applicant does not need to be an FmHA borrower.

(vi) All applicants must meet the application requirements of paragraph (a)(3) of this section.

(vii) Except as provided in § 1951.911(a)(2) (ii) and (iii), if the County Supervisor determines that the applicant is not eligible for leaseback/buyback, the applicant will be advised of appeal rights in accordance with subpart B of part 1900 of this chapter.

(5) *Processing applications prior to acquisition of property.*

(i) An owner may apply for leaseback/buyback and/or homestead protection at any time before FmHA acquires the owner's property, provided that an application for pre-acquisition leaseback/buyback will not prevent FmHA's continued processing of an acceleration or foreclosure of the account. All applications made for pre-acquisition leaseback/buyback must be in writing. If application is made for both leaseback/buyback and homestead protection, consideration will be given to both options and the borrower will be notified of both decisions simultaneously. Concurrently with the execution of the pre-acquisition Leaseback/Buyback Agreement, the borrower will deliver a completed Form FmHA 1955-1 to FmHA. The Leaseback/Buyback Agreement is subject to the provisions of subpart A of part 1955 of this chapter. If FmHA acquires title to the leaseback/buyback property during the processing of a preacquisition leaseback/buyback agreement, processing of the agreement will be terminated and the owner will be given leaseback/buyback rights pursuant to paragraph (a)(1)(ii) of this section.

(A) If the owner has requested leaseback, the County Supervisor will determine if the owner can fulfill the terms and conditions of the lease. If the County Supervisor determines that the owner cannot fulfill the terms and conditions of the lease and/or the owner fails to submit the information requested on exhibit K of this subpart within 15 days of the date which appears on exhibit K, leaseback will be denied, and appeal rights will be given in accordance with subpart B of part 1900 of this chapter. If the County Supervisor determines that the owner can fulfill the terms and conditions of the lease, the County Supervisor and the owner will enter into a Leaseback/Buyback Agreement (exhibit N of this subpart) to lease the property to the owner if and when FmHA acquires title. The lease will contain an option to purchase the property. A copy of Form FmHA 1955-20, "Lease of Real Property," will be attached to the agreement as an exhibit. The agreement will provide that FmHA's obligation to enter into a lease/sale of

the property is contingent on FmHA acquiring fee title to the property. The agreement will contain a provision that if the lease/sale does not close within 2 years from the date of the agreement, the agreement (and FmHA's obligation to lease/sell) will end.

(B) If the owner has requested buyback of the property as a credit sale on eligible rates and terms, the County Committee will determine the owner's eligibility in accordance with subpart A of part 1943 of this chapter and the County Supervisor will determine the feasibility of the proposed operation before entering into the Leaseback/Buyback Agreement. If the County Committee determines that the owner is not eligible or the County Supervisor determines that the owner's proposed operation and purchase is not feasible, and/or the owner fails to submit the information requested on exhibit K of this subpart within 15 days of the date which appears on exhibit K, and buyback is denied, appeal rights will be given in accordance with subpart B of part 1900 of this chapter. If the County Committee determines the owner is eligible for a credit sale on eligible rates and terms and the County Supervisor determines that the owner's proposed operation and purchase is feasible, the County Supervisor will enter into a conditional credit sale with the owner. The following conditions will be inserted on Form FmHA 1955-45, "Standard Sales Contract—Sale of Real Property by the United States":

"FmHA's obligation to close the sale is contingent on its acquiring title to the security within 2 years from the date of the agreement. FmHA's obligations are contingent on the owner meeting FmHA's credit sale criteria for eligible rates and terms, creditworthiness and repayment ability at the time the credit sale is ready to close."

(C) If the owner has requested buyback of the property as a credit sale on ineligible rates and terms, the County Supervisor will determine eligibility and feasibility before entering into the Leaseback/Buyback Agreement. If the County Supervisor determines that the owner is not eligible, that the purchase is not feasible, and/or the owner fails to submit the information requested on exhibit K of this subpart, buyback will be denied, and appeal rights will be given in accordance with subpart B of part 1900 of this chapter. If the County Supervisor determines that the owner is eligible for a credit sale on ineligible rates and terms, when the security is taken into inventory, the County Supervisor will enter into a conditional credit sale with the owner. The

following conditions will be inserted on Form FmHA 1955-45:

"FmHA's obligation to close the sale is contingent on its acquiring title to the security within 2 years from the date of the agreement. FmHA's obligations are contingent on the owner meeting FmHA's credit sale criteria for creditworthiness and repayment ability at the time the credit sale is ready to close. The credit sale will close as soon as possible after FmHA acquires title to the security and any other contingencies are satisfied."

(D) If the owner has requested buyback of the property by paying cash, the County Supervisor will enter into Form FmHA 1955-45 with the owner subject to the following contingency which will be inserted in Form FmHA 1955-45: "FmHA's obligation to close the sale is contingent on its acquiring title to the property within 2 years from the date of the agreement."

(E) In the event FmHA is not able to obtain title to the property upon the signing of the Leaseback/Buyback Agreement, the borrower is unwilling to voluntarily convey the property and/or FmHA determines it is unable to accept a voluntary conveyance, FmHA will continue with the acceleration of the indebtedness and foreclosure of the property. The Leaseback/Buyback Agreement does not obligate FmHA to take the property into FmHA inventory if it is not in FmHA's financial interest to do so.

(ii) If the owner has requested leaseback/buyback of the real property, FmHA may, as a part of an agreement, permit the owner to voluntarily convey the real property and chattels to FmHA and immediately lease or credit sale the real property back to the former owner. FmHA may sell all the chattel property back to the former owner on credit in accordance with § 1955.124 of subpart C of part 1955 of this chapter. These agreements are subject to the following items being concluded before completing any transaction:

(A) Based on the market value of the property and FmHA's potential recovery value, it is determined to be in the Government's best interest to acquire title to the property. Exhibit G of subpart A of part 1955 of this chapter will be used to determine if it is in the Government's best financial interest to accept the voluntary conveyance;

(B) Any remaining debt after conveyance of the chattel and of real estate property will be debt settled in accordance with subpart B of part 1956 of this chapter;

(C) The County Committee must determine that the former owner is

eligible for any proposed credit sale on eligible rates and terms;

(D) The County Supervisor must determine that the former owner has repayment ability and creditworthiness for a credit sale or sufficient experience, management skills, and financial resources to assure a reasonable prospect of success in the farming operation for leaseback; and

(E) If the property contains wetlands, floodplains, and/or highly erodible land, necessary deed restrictions will be placed on the property as set forth in exhibit M of subpart G of part 1940 of this chapter and subparts B and C of part 1955 of this chapter.

(iii) All conveyances of fee title and/or a leasehold interest, which involves a voluntary conveyance, leaseback/buyback and/or homestead protection will be executed simultaneously.

(6) *Processing leaseback requests.* The applicant must furnish the necessary financial information as set forth in § 1951.907(f) of this subpart, to assist the County Supervisor in determining if a feasible plan of operation can be developed. If the County Supervisor determines the applicant can meet the terms of the lease and has sufficient experience, management skills and financial resources to assure a reasonable prospect of success in the farming operations, the County Supervisor may approve the lease on Form FmHA 1955-20.

(i) The term of the lease may be from 1 to 5 years. The lessee will select the term of the lease. Leases may be for cash or crop share. If the lessee is able to pay the cash lease payment at the time the lease is executed, a feasible plan is not required.

(ii) All leases under the leaseback/buyback program will contain an option to purchase. Terms of the option will be set forth as part of the lease as a special stipulation in accordance with the FMI for Form FmHA 1955-20. The purchase price (option price) will be the appraised market value at the time the option is exercised as set forth in subpart A of part 1809 of this chapter (FmHA Instruction 422.1) and supported by a current appraisal on Form FmHA 422-1, "Appraisal Report—Farm Tract." The option to purchase may be exercised any time during the term of the lease. All options expire when the lease ends.

(iii) Leaseback property will be leased for an amount equal to that for which similar properties in the area are being leased or rented (market rent). In no case will inventory property be leased for a token amount. The County Supervisor will make a survey of lease amounts of farms in the immediate area

with similar soils, capabilities and income. The amount of the rental will be determined by the County Supervisor. Prior to entering into a Leaseback/Buyback Agreement, the County Supervisor will advise the applicant, by letter, of the rent amount. If the leaseback applicant disagrees with the proposed rental, the applicant can appeal in accordance with subpart B of part 1900 of this chapter.

(iv) The lease payments will not be applied toward the purchase price.

(7) *Processing buyback request.* The applicant must furnish the necessary financial information in accordance with § 1951.907(f) of this subpart to assist the County Supervisor in determining if the applicant can meet the terms of any purchase agreement. If the applicant has requested the property to be financed with a credit sale, a determination will need to be made if the applicant has sufficient experience, management skills and financial resources to assure a reasonable prospect of success.

(i) Title clearance and loan closing will be handled in accordance with subpart B of part 1927 of this chapter and the terms specified in Form FmHA 1955-49.

(ii) The purchase price will be the appraised market value as set forth in subpart A of part 1809 of this chapter (FmHA Instruction 422.1) and supported by a current appraisal on Form FmHA 422-1.

(iii) The property will be offered on eligible terms (if the purchaser is eligible in accordance with subpart A of part 1943 of this chapter) and a credit sale processed in accordance with subpart C of part 1955 of this chapter or on ineligible terms of not less than ten percent (10%) downpayment with the remaining balance amortized over a period not to exceed 25 years. The interest rate will be the current rate set forth in exhibit B of FmHA Instruction 440.1 (available in any FmHA office).

(iv) If the purchaser is an eligible applicant (in accordance with subpart A of part 1943 of this chapter) and the value of the property is greater than \$200,000, the property may be financed with a \$200,000 credit sale on eligible terms and the remainder with the applicant's own resources and/or with participating credit as set forth in subpart A of part 1943 of this chapter. If this value of the farm property is greater than \$200,000 and the eligible applicant is NOT able to arrange the necessary financing for the balance over \$200,000, FmHA may finance the purchase of the property with a credit sale on ineligible terms of not less than ten percent (10%) downpayment with the remaining

balance amortized over a period not to exceed 25 years. A credit sale on eligible terms and the remaining balance on ineligible terms will NOT be made to the same applicant to purchase farm property.

(8) *Special provisions.* The County Supervisor must take into consideration the following provisions:

(i) The rights afforded an individual or entity under FmHA's Leaseback/Buyback program are for the total farm property. Farm property will not be subdivided for lease or purchase for such persons or entity. If the property is larger than a family-size farm, and no person or entity exercises leaseback/buyback rights, the property will then be subdivided and sold in accordance with subpart C of part 1955 of this chapter.

(ii) If the inventory property selected for leaseback/buyback is subject to homestead protection rights by someone other than the selected individual, FmHA's obligation to enter into the lease or close the sale will be contingent on FmHA's prior compliance with all local laws, ordinances and regulations, if any, governing the subdivision of land. The homestead protection property must be a separate parcel. The homestead protection property will be excluded from the leaseback/buyback property. If necessary, FmHA will grant and/or retain for the benefit of adjoining property, reasonable easements for ingress, egress, utilities, water rights, etc;

(iii) If the property contains lands that are wetlands and/or floodplains, the prospective lessee or purchaser will be informed by FmHA of its presence and location, along with the USDA restrictions regarding its use, as set forth in exhibit M of subpart G of part 1940 of this chapter and subparts B and C of part 1955 of this chapter. The provisions of a purchase agreement or a lease agreement for farm inventory property that is "highly erodible land," as determined by the Soil Conservation Service (SCS), must contain, as requirements of the lease or sale, conservation practices specified by the SCS and approved by FmHA as a condition of the lease or sale. If the land is under an Agricultural Stabilization and Conservation Service (ASCS) Conservation Reserve Program (CRP) contract, the purchaser/lessee shall assume the CRP contract. This requirement shall be included as a provision in all leases or sale documents entered into pursuant to the Leaseback/Buyback Program;

(iv) In the event of any conflict between any provisions of the FmHA Leaseback/Buyback Program, as outlined in this section and any

provisions of State law providing a right of first refusal to the owner of farmland or the operator of a farm before the sale or lease of land to any other person, such provision of the State law shall prevail. State supplements will be prepared with the assistance of OGC as necessary, to provide guidance to FmHA officials as to how to comply with the State laws. State supplements will be submitted to the National Office for post-approval in accordance with FmHA Instruction 2006-B (available in any FmHA office);

(v) Failure to make lease payments as scheduled or to maintain the property in good condition shall constitute cause for the termination of all rights of the lessee to possession and occupancy of the farm property under this section. As soon as a lease payment is delinquent, the lessee will be notified in writing that if the payment is not received within 30 days from the date of the notification, the lease and all rights of the lessee to possession and occupancy of the property, including the right to exercise the option to purchase, will be terminated. Likewise, for crop share leases where the lessee fails to provide accurate records of production, the lessee will be advised in writing that such records must be provided to FmHA within 30 days, otherwise the lease will be terminated. If the crop production records are not furnished or the past due lease payment is not received within the 30 days, the County Supervisor will notify the lessee in writing of the termination of the lease and option and give the lessee the opportunity to appeal the decision pursuant to subpart B of part 1900 of this chapter. The lessee may continue to occupy the property under the terms of the lease during an appeal of the termination decision. FmHA will comply with all applicable State and local laws governing eviction from the property;

(vi) Denial of applications for or disputes over terms and conditions of a lease or purchase agreement under the Leaseback/Buyback Program, are appealable pursuant to subpart B of part 1900 of this chapter. Disputes over appraisals for leaseback/buyback will be handled in accordance with § 1951.909 (i)(3) or (i)(4) of this subpart, as applicable, and § 1900.53(c) of subpart B of part 1900 of this chapter, as applicable; and

(vii) For additional guidance on the acquisition, management and sale of inventory farm property (CONACT property), the County Supervisor should refer to subparts A, B and C of part 1955 of this chapter.

(b) *Homestead protection.* This paragraph contains the policies and

procedures pertaining to the FP Homestead Protection Program. The Homestead Protection Program is a "Preservation Loan Service Program" as set forth in this subpart. A borrower or former borrower who had or has an FP loan secured by the real property containing the dwelling owned by the borrower and used as the borrower's principal residence may apply for homestead protection before or after FmHA acquires the property. Farm real property that is in FmHA inventory as of the effective date of this regulation or is acquired in the future that secured a FP loan to individuals or entities will be considered for homestead protection as set forth in this subpart. If there is a conflict between applicants for leaseback/buyback (see § 1951.911(a)) and homestead protection, priority will be given to the application for homestead protection. An applicant can apply for both homestead protection and leaseback/buyback at the same time. The applicant can obtain the homestead protection property under the Homestead Protection Program and the balance of the farm under the Leaseback/Buyback Program.

(1) *Purpose.* The purpose of the Homestead Protection Program is to permit a borrower or former borrower who is eligible for homestead protection to retain their dwelling through a lease and/or purchase. Such lease and/or purchase could permit a borrower or former borrower to have a home which could be a headquarters which could provide an opportunity to continue to farm and reestablish a feasible farming operation.

(2) *Notification and processing.* When a borrower(s) becomes at least 30 days delinquent on an FmHA loan(s), the borrower(s) will be sent exhibit A with attachments 1 and 2 of this subpart. Sending of this exhibit and attachments will be the notice to the borrower of the availability of Primary and Preservation Loan Service. If a feasible plan for restructuring the borrower's debt cannot be developed using Primary Loan Service Programs, the borrower will be notified of Preservation Service Programs and other servicing options by sending attachments 5 and 6, or 5-A and 6-A, of exhibit A of this subpart, as applicable. If the borrower requests an appeal and the adverse decision is not overturned, the borrower does not request an appeal or fails to pay FmHA the net recovery value of the property, the borrower will be advised by the use of exhibit K with attachment 1 of this subpart, that FmHA will continue with the processing of Preservation Service Programs, if applicable. A borrower who

desires to apply will request homestead protection in accordance with the provisions of § 1951.907 of this subpart before the property is acquired and paragraph (b)(2)(iii) of this section after the property is acquired. A borrower who desires to participate in the program must request homestead protection by applying in accordance with § 1951.907(f) of this subpart or paragraph (b)(2)(iii) of this section. A borrower who meets the eligibility requirements in paragraph (b)(3) of this section will be permitted to retain possession of the homestead in accordance with paragraph (b)(2)(ii) of this section before title is acquired or under a lease with an option to purchase after title to the property is acquired.

(i) *General.* (A) The homestead protection property will include the borrower's principal residence and not more than 10 acres of adjoining land that is used to maintain the borrower's family and a reasonable number of farm service buildings located on land adjoining the residence which are useful to the occupants of the dwelling.

(B) The County Supervisor will review the borrower's proposed homestead protection property and will make a physical inspection of the property, if necessary. If the County Supervisor does not agree with the proposed shape or size of the property, the County Supervisor and borrower will agree on an alternate size and shape for the property.

(C) If the borrower and the County Supervisor cannot agree on the proposed shape and size of the property, the County Supervisor will make the determination. The borrower may appeal pursuant to subpart B of part 1900 of this chapter.

(D) When the size and shape of the property is agreed upon and the borrower has been found eligible by the County Supervisor, the County Supervisor will request a licensed surveyor to survey the property, have a legal description prepared, and mark the property lines with permanent type markers.

(E) Appraisals will be completed in accordance with paragraphs (b)(7) and (b)(8)(ii)(B) of this section.

(ii) *Processing homestead protection before FmHA acquires title.* (A) A borrower will be considered for eligibility for homestead protection when it is determined that the Primary Loan Service Programs cannot help. Exhibit K with attachment 1 of this subpart will be sent to the borrower. The borrower must indicate the buildings and land to be included in the request for homestead protection in order to continue the processing of his/

her application. If the County Supervisor determines the borrower is eligible for homestead protection, the County Supervisor and the borrower will enter into a Homestead Protection Program Agreement (exhibit L of this subpart) to lease the Homestead Protection property to the borrower if and when FmHA acquires title. A copy of Form FmHA 1955-20, "Lease of Real Property," will be attached to the agreement as an exhibit.

(B) Concurrently with the execution of the preacquisition Homestead Protection Program Agreement, the borrower will deliver a completed Form FmHA 1955-1 to FmHA. The Homestead Protection Program Agreement is subject to the provisions of subpart A of part 1955 of this chapter. If FmHA acquires title to the homestead protection property during the processing of a preacquisition Homestead Protection Agreement, processing of the agreement will be terminated and the owner will be given homestead protection rights pursuant to paragraph (b)(2)(iii) of this section.

(C) FmHA's obligation to lease the dwelling to the borrower will also be contingent on FmHA's prior compliance with all State and local laws, ordinances and regulations governing the subdivision of land. The Agreement will contain a provision that if FmHA cannot satisfy the foregoing conditions within 2 years from the date of the agreement, the agreement (and FmHA's obligation to lease with option to purchase) will terminate. In the event an agreement has been entered into, but title to the property has not been conveyed to FmHA (or FmHA has determined it is not in its financial interest to accept title), FmHA will continue with the acceleration and foreclosure of the property. It is not the intent of the 2-year term of the agreement to limit FmHA's ability to foreclose on the property provided all the terms of the agreement have been met except that the title has not been conveyed to FmHA.

(iii) *Application for homestead protection after FmHA acquires title.* When FmHA acquires title to the farm property, the borrower will be sent exhibit M of this subpart, by certified mail, return receipt requested, within 30 days from the acquisition date. The borrower must request homestead protection by notifying the County Supervisor in writing not later than 90 days after FmHA acquires the property. The borrower must give the County Supervisor the information set forth in § 1951.907 (f) of this subpart and indicate the buildings and land to be included in the request for homestead protection.

(iv) *Lease with option.* A lease with an option to purchase will be entered into with an eligible borrower on Form FmHA 1955-20 after FmHA acquires title to the property. Form FmHA 1955-20 will be completed in accordance with § 1951.911(b)(8) and the FMI.

(3) *Eligibility.* The County Supervisor will make the determination on eligibility. In order to qualify for homestead protection the borrower must meet the following eligibility requirements:

(i) An applicant for Homestead Protection must be an individual borrower who was personally liable for the Farmer Program loan that was secured in part by the Homestead Protection property, or in the case where a non-borrower owner of the homestead protection property pledged the property to secure the FP loan, the owner of the property. The applicant must also be or have been the owner of the Homestead Protection property. The Farmer Program loan could have been made to an individual or to an entity, as long as the applicant for homestead protection was a member of the entity and was personally liable for the Farmer Program loan. A member of an entity who is or was personally liable for a Farmer Program loan that is or was secured by the homestead protection property is considered an owner for homestead protection purposes so long as either the member of the entity or the entity itself held fee title to the homestead protection property;

(ii) When more than one member of an entity was personally liable for a Farmer Program loan, each such member who possessed and occupied a separate dwelling as his or her principal residence, on property that is or was security for a Farmer Program loan, may apply separately for homestead protection of their individual dwellings;

(iii) The applicant and any spouse must have received from the farming or ranching operations gross farm income reasonably commensurate with the size and location of the farm and reasonably commensurate with local agricultural conditions (including natural and economic conditions) in at least 2 calendar years during the 6-year period preceding the calendar year in which the application is made. Farms used for comparison purposes must be farms of similar size, type of operation and locality. For the purpose of this subparagraph and subparagraph (iv) below, income from farming or ranching operations will include rent paid to the borrower by a lessee of agricultural land during any period in which the borrower, due to circumstances beyond

his or her control, such as economic, natural disaster or health problems, was unable to actively farm that property. In determining whether or not the gross farm income was reasonably commensurate with the farm size and location and local agricultural conditions, the borrower's records will be analyzed. When the borrower applies for homestead protection the borrower will give the County Supervisor at least 2 calendar years of records of planned and actual gross farm income for the 6-year period preceding the calendar year in which the application is made. If such records do not exist, they may be developed by the applicant and County Supervisor from information relating to yields, expenses and prices found in the borrower's County Office case file, ASCS records or other reliable sources;

(iv) The applicant and any spouse must have received from the farming or ranching operations at least 60 percent of the gross annual income of the borrower and any spouse of the borrower in at least 2 of the 6 calendar years preceding the calendar year in which the application for homestead protection is made;

(v) The applicant must have continuously occupied the homestead protection property during the 6-year period preceding the calendar year in which the application is made, unless the applicant had to leave the property for a period of time not to exceed 12 months during the 6-year period due to circumstances beyond the borrower's control, such as illness, employment or conditions that made the dwelling uninhabitable; and

(vi) The applicant must have sufficient income to make rental payments for the term of the lease and the ability to maintain the property in good condition. The applicant must also agree to all the terms and conditions set forth in paragraph (b)(8) of this section and in Form FmHA 1955-20.

(4) *Transfer of homestead protection rights.* The applicant's rights to homestead protection and rights under the Agreement or lease entered into pursuant to this section are not transferable or assignable by the applicant or by operation of law, except that in the case of death or incompetency of the applicant, such rights and agreements shall be transferable to the spouse of the applicant if the spouse agrees to comply with the terms and conditions of the lease by executing a new lease on the same terms and conditions.

(5) *Appeal rights.* If the County Supervisor determines that the applicant is not eligible for homestead protection or the lease is terminated because the

lessee fails to make lease payments as scheduled or to maintain the property in good condition, the County Supervisor will notify the applicant or lessee in writing of the decision and give the opportunity to appeal in accordance with subpart B of part 1900 of this chapter. The property will not be leased or sold until the appeal is concluded. If more than one applicant is found eligible for homestead protection, but the County Supervisor grants homestead protection to only one applicant, the successful applicant will be notified that he or she will be required to participate in any appeal hearing arising out of the County Supervisor's decision or lose the right to seek review if the hearing officer reverses the County Supervisor's decision selecting the applicant for homestead protection.

(6) *Property requirements.* (i) The proposed homestead protection property tract must meet all requirements for the division of the homestead protection property into a separate legal lot as required by State and local laws. All environmental considerations required under the provisions of subpart G of part 1940 of this chapter will be complied with.

(ii) Costs for a survey, legal description or other service needed to establish, appraise, define or describe the homestead protection property as a separate tract, will be paid for by FmHA. Such costs will be handled in accordance with § 2024.753(c) of FmHA Instruction 2024-P (available in any FmHA office). No repairs or improvements will be paid for by FmHA except as provided for in § 1955.64(a) of subpart B of part 1955 of this chapter.

(iii) If necessary, FmHA will grant and/or retain for the benefit of adjoining property reasonable easement(s) for ingress, egress and utilities, water rights, etc.

(7) *Appraisal.* The current market value of the homestead protection property shall be determined by an independent appraisal made within 6 months from the date of the borrower's application for homestead protection. The applicant will select an independent real estate appraiser from a list of appraisers approved by the County Supervisor.

(i) The County Supervisor will develop and maintain, in the County Office operational file, a list of independent appraisers. See § 1951.909(i) (3) and (4) of this subpart.

(ii) The cost of such an appraisal will be handled in accordance with paragraph (b)(6)(ii) of this section.

(iii) Independent appraisals are appealable.

(8) *Terms of the lease and exercising the option.* (i) All leases will have an option to purchase. Any reference to a lease for homestead protection purposes will mean a lease with an option to purchase. The lease will be offered with an option to purchase on Form FmHA 1955-20 and will be for a period of not more than 5 years as requested by the applicant. A lease of less than 5 years may be extended, but not beyond 5 years from the date of the beginning of the term of the original lease.

(A) The amount of the rent will be based upon equivalent rents charged for similar residential properties in the area in which the dwelling is located. The County Supervisor will document in the case file a sufficient number of equivalent rents charged in the area for such properties to support the lease amount.

(B) Lease payments will be retained by the Government and remitted in accordance with FmHA Instruction 1951-B (available in any FmHA office).

(C) Failure to make lease payments as scheduled or to maintain the property in good condition shall constitute cause for the termination of all rights of the lessee to possession and occupancy of the dwelling retention property under this section. As soon as a lease payment is delinquent, the lessee will be notified in writing that if the payment is not received within 30 days from the date of the notification, the lease and all rights of the lessee to possession and occupancy of the property including the right to exercise the option to purchase will be terminated. The County Supervisor will notify the lessee in writing of the termination of the lease and option and give the lessee the opportunity to appeal the decision pursuant to Subpart B of Part 1900 of this chapter. The lessee will continue to occupy the dwelling under the terms of the lease during an appeal of the termination decision. FmHA will comply with all applicable State and local laws governing eviction from residential property.

(D) Any interference by the lessee with the Government's efforts to lease or sell the remainder of farm inventory property shall constitute cause for the termination of all rights of the lessee to possession and occupancy of the dwelling and property including the right to exercise the option to purchase. This stipulation will be added to the lease. The act of an applicant exercising his or her rights under the Leaseback/Buyback Program is not considered as interfering with the Government's efforts to lease or sell the property.

(ii) *Exercising the option to purchase.*

(A) The lessee may exercise the option in writing at any time prior to the expiration of the lease by delivering to the FmHA County Supervisor a signed, written statement notifying FmHA that the lessee is exercising the option to purchase the property. Failure to exercise the option within the lease period will end the lessee's rights under the option to purchase.

(B) When the lessee exercises the option in the lease to purchase the property, the purchase price will be the current market value of the homestead protection property. The current market value will be determined by an appraisal in accordance with paragraph (b)(7) of this section providing the appraisal is not more than 1 year old. If the appraisal is more than 1 year old, the current market value will be determined by a new appraisal requested in accordance with paragraph (b)(7) of this section.

(C) The homestead protection property may be sold for cash or financed with a credit sale. At the time the lessee exercises the option the lessee must notify the County Supervisor if he or she wants to purchase the property for cash or finance it through a credit sale from FmHA.

(D) If a credit sale is involved, the applicant must furnish the County Supervisor the information set forth in § 1951.907(f) of this subpart to assist in determining whether or not the applicant has adequate repayment ability.

(9) *Rates and terms for a credit sale.* Terms for a credit sale of homestead protection property when the lessee is exercising the option to purchase and has qualified for a credit sale will not exceed 35 years with equal amortized monthly installments. No down payment will be required. The interest rate for homestead protection will be as set forth in Exhibit B of FmHA Instruction 440.1 (available in any FmHA office).

(10) *Closing.* A credit sale will be closed in accordance with Subpart C of Part 1955 of this chapter.

(11) *Conflict with State law.* In the event of a conflict between a borrower's homestead protection rights and any provisions of the law of any State relating to the right of a borrower to designate for separate sale or redeem part or all of the property securing a loan foreclosed on by a lender, such provision of State law shall prevail. A State supplement will be prepared as necessary to supplement paragraph (b) of this section.

(12) *State supplements.* State supplements will be prepared with the

assistance of OGC, as necessary, to comply with State laws to provide guidance to FmHA officials. State supplements will be submitted to the National Office for post approval in accordance with FmHA Instruction 2006-B (available in any FmHA office).

(c) *Servicing homestead protection loans.* Homestead protection loans will be serviced as set forth in subpart A of part 1965 of this chapter.

§ 1951.912 Mediation.

(a) *States with a USDA certified mediation program.* The FmHA is required to participate in USDA Certified State Mediation Programs. The purpose of mediation is to participate with farm borrowers, and their creditors, in an effort to resolve issues necessary to overcome the borrower's financial difficulties. Any negotiation of an FmHA appraisal pursuant to § 1951.909(i) of this subpart will be completed prior to mediation.

(1) FmHA shall participate in a USDA Certified Mediation Program under the same terms and conditions as other creditors. Decisions will not be binding on FmHA unless approved by the representative assigned by FmHA in accordance with paragraph (a)(4) of this section.

(2) FmHA will pay the same mediation fees to the USDA Certified State Mediation Board that are charged to all creditors that participate in mediation. The Contracting Officer (CO) will complete Form AD-838, "Purchase Order," to establish a mediation contract and submit Form FmHA 838-B, "Invoice-Receipt Certification," for payment upon receipt of an invoice from the Mediator or the Contracting Officer's Representative (COR) recommending payment.

(3) Failure of creditors and/or borrowers to participate in mediation will not preclude FmHA from granting Primary Loan Service Programs to assist borrowers.

(4) The FmHA State Director will designate a representative to represent FmHA in the mediation process. Authorities of the representatives can vary from complete authority to act for FmHA, to a requirement for review and concurrence by the State Director or designee prior to approving a mediation agreement. The State Director will set forth in writing the specific authority delegated to the designated representative.

(5) The FmHA State Director will arrange for adequate training for representatives designated to represent FmHA in mediation.

(6) When mediation is not successful in resolving the borrower's financial

difficulty, the County Supervisor will send the borrower attachments 5 and 6, or 5-A and 6-A, of exhibit A of this subpart, as applicable.

(7) The FmHA State Director will develop a State supplement that describes how FmHA will participate in the State Mediation Program. In developing the State supplement the State Director should confer with the State Attorney General's Office, farm organizations that are interested in the development of the State's Certified Agricultural Loan Mediation Program, and Departments of State Governments to ensure that all interested parties have input on the content of the State supplement. The State Director will consult with the Regional OGC as necessary to develop the State supplement. State supplements will be submitted to the National Office for post approval in accordance with FmHA Instruction 2006-B (available in any FmHA office).

(b) *States without a Certified Mediation Program.* To service those borrowers in States where there is no USDA Certified Mediation Program established, the State Director will provide the means of conducting a voluntary meeting of creditors, either with a mediator or a designated FmHA representative. "Creditors," for purposes of this paragraph, means all the borrower's undersecured creditors holding a substantial part of the borrower's debt in accordance with § 1951.909(h)(3)(i) of this subpart. State Directors are encouraged to contract for qualified mediators within their jurisdictional areas to conduct the voluntary meeting of creditors in an effort to help farmers resolve their financial difficulty. The National Office will provide the State a list of qualified mediators for contracting purposes. Any negotiation of an FmHA appraisal pursuant to § 1951.909(i) of this subpart will be completed prior to meeting with other creditors.

(1) When a mediator is available, the County Supervisor will assist the mediator in scheduling a meeting with the borrower and all of the borrower's creditors and will encourage them to participate in such a meeting. The mediator will be responsible for conducting the meeting in accordance with accepted mediation practices and to develop an Agreement to assist the farmer in resolving their financial difficulties.

(2) When a mediator is not available, the State Director will designate an FmHA representative to conduct a meeting of creditors and attempt to develop a plan with borrowers and their

creditors that will assist the borrowers to resolve their financial difficulty. The State Director will designate a representative not previously involved in servicing the borrower's account. State Directors will designate a representative, or FmHA employees who have demonstrated good human relations skills and ability to resolve problems and settle disputes.

(3) The designated FmHA representative for conducting a meeting of creditors will do the following:

(i) Schedule a meeting between the borrower and the borrower's creditors and encourage them to participate in such a meeting;

(ii) State that the parties understand that the representative is neutral and does not represent any of the parties;

(iii) Inform the borrower and creditors concerning FmHA programs available to assist the borrowers;

(iv) Encourage the parties to utilize all available means to assist the borrower to overcome the financial difficulty;

(v) Advise, counsel, and facilitate the development of a debt restructure agreement between the borrower and creditors which will permit the borrower to remain in farming;

(vi) Review with the parties any proposed solution to determine if it can be effectively implemented and to help the parties understand the consequences of the proposed solution;

(vii) Review the obligations of the participants, including but not limited to the maintenance of confidentiality and the promotion of good faith discussions in an effort to reach agreement; and

(viii) Develop a written document that specifies the agreements reached in the meeting. The agreement will be signed by all parties with authority to approve the agreement for the participating creditors. When signed, copies will be distributed to the borrower and participating creditors. A copy will be filed in the borrower's County Office case file.

(4) If agreements are reached which will permit the development of a feasible plan of operation, the County Supervisor will proceed with processing and approval of the borrower's request for primary loan servicing.

(5) When the FmHA representative has exhausted all efforts to develop an agreement between the borrower and creditors and an agreement cannot be reached, the FmHA representative will report the results of this meeting to the State Director by memorandum. Copies of the memorandum will be sent to the borrower and all creditors participating in the meeting. When the County Supervisor receives a copy of this memorandum indicating that an

agreement cannot be reached, attachments 5 and 6, or 5-A and 6-A, of exhibit A of this subpart, as applicable, will be sent to the borrower.

(6) State Directors will provide the necessary training to ensure that the FmHA representative has the necessary skills to effectively conduct a voluntary meeting between a borrower and creditors which may result in reaching an agreement.

(7) Failure of creditors to participate in a voluntary meeting of creditors will not preclude FmHA from using debt writedown if it would result in a greater net recovery to FmHA than liquidation. Whenever the net recovery to FmHA will be greater using the writedown than to go through foreclosure, FmHA will use the writedown, regardless of the actions of the other creditors. Voluntary meetings of creditors cannot delay consideration of a borrower for Primary Loan Service Programs, except with the consent of the borrower.

(8) If the borrower does not participate in the voluntary meeting of creditors without good cause and a feasible plan of operation cannot be developed, the County Supervisor will send the borrower attachments 5 and 6, or 5-A and 6-A, of exhibit A of this subpart, as applicable.

§ 1951.913 Servicing Net Recovery Buyout Recapture Agreements.

(a) *Death or retirement.* If upon the death or retirement of a borrower who submitted a "new application," as defined in § 1951.906 of this subpart, the borrower executed exhibit C-1 of this subpart and transferred title of the borrower's real estate security to a spouse or child who is actively engaged in farming on the property, then the transaction will not be treated as a "sale" or "conveyance" under the recapture agreement. The borrower's spouse or child, however, must assume the full liability of the borrower under the provisions of the borrower's Net Recovery Buyout Recapture Agreement and real estate lien instrument in accordance with instructions from OGC.

(b) *Record of net recovery buyout.* The Finance Office will credit the borrower's account with the net recovery value (NRV) amount paid by the borrower. An equity record will be established in accordance with the provisions of the ADPS manual.

(1) For borrowers who applied for Loan Servicing and Preservation Service Programs before November 28, 1990, and executed exhibit C of this subpart, a recapture equity record will be established in an amount equal to the difference between the NRV and the market value of the real estate security

as of the date the net recovery buyout agreement was signed by the borrower.

(2) For borrowers who submit "new applications," as defined in § 1951.906 of this subpart, and execute exhibit C-1 of this subpart, an equity record will be established in an amount equal to the amount of debt secured by real estate that was written off as of the date the net recovery buyout agreement was signed by the borrower. This is the maximum amount that can be recaptured.

(c) *Review by County Supervisor.* The County Supervisor will establish a follow-up to review the County real estate records every 24 months starting from the date of the Net Recovery Buyout Recapture Agreement to determine if the borrower has sold or conveyed the real estate property covered by the agreement. Scheduled reviews to be conducted must be posted on the borrower's Form FmHA 1905-1, "Management System Card—Individual," for follow-up purposes. The results of the review will be recorded in the borrower's County Office case file. These reviews will end at the expiration of the agreement. If there is no recapture due, then the County Supervisor will proceed in accordance with paragraph (g) of this section.

(d) *Notification of recapture due.* If the County Supervisor determines that the borrower has sold the real estate, the borrower will be notified in writing, certified mail, return receipt requested, of the following:

(1) The amount of recapture due in accordance with exhibits C or C-1 of this subpart, as applicable. The County Supervisor will establish an equity receivable account in accordance with the provisions of the ADPS manual;

(2) The date the recapture is due (not to exceed 30 days from the date the Notice of Recapture Letter is received by the borrower);

(3) Appeal rights as set forth in subpart B of part 1900 of this chapter; and

(4) If the borrower fails to pay any amount due to FmHA as the result of a sale of the property, the account will be accelerated as set forth in § 1955.15 of subpart A of part 1955 of this chapter after all appeal rights have been exhausted.

(e) *Processing payments.* The County Supervisor will issue Form FmHA 451-2, "Schedule of Remittance," for all the payments received under the Recapture Agreement. The following should be recorded in the body of the form: "Equity Receivable Payment."

(f) *Release of liability.* When the total amount due under the agreement has

been paid and credited to the borrower's account, the borrower will be released from personal liability. The recapture agreement will be marked "Recapture Agreement Satisfied" and returned to the debtor or to the debtor's legal representative. In such cases, the security instrument(s) will be released of record in accordance with subpart A of part 1965 of this chapter.

(g) *No recapture due.* If the County Supervisor determines there is no recapture due, the County Supervisor will close the borrower's equity record in accordance with the provisions of the ADPS manual. Exhibit C or C-1 of this subpart, as applicable, will be terminated and security instruments will be processed as set forth in paragraph (f) of this section.

§ 1951.914 Servicing of accounts restructured under Primary Loan Service Programs.

(a) *Servicing Shared Appreciation Agreements.* (1) The County Office will input, via the FmHA field office terminal system, an equity record. The County Office will process this transaction in accordance with the provisions in the ADPS manual and the information in exhibit D of this subpart, "Shared Appreciation Agreement."

(2) The borrower's account will be credited with the amount of debt written down.

(3) Six months prior to the end of the Shared Appreciation Agreement, not to exceed 10 years, the Finance Office will notify the County Supervisor of the expected final date of the recapture.

(4) The County Supervisor will establish a follow-up on Form FmHA 1905-1, "Management System Card—Individual," to review the County real estate records every 24 months starting from the date of the Shared Appreciation Agreement to determine if the borrower has sold the real estate property covered by the agreement or transferred title to such property. The results of the review will be recorded in the borrower's County office case file.

(5) If the County Supervisor determines that the borrower has sold the real estate or transferred title, an appraisal of the real estate will be completed. If the appraisal indicates that there is a positive value between the current market value at the time the Shared Appreciation Agreement was signed and the current market value at the time the borrower conveyed the real estate or transferred title, the borrower will be notified in writing, certified mail, return receipt requested, of the following:

(i) The amount of recapture due;

(ii) The date the recapture is due (not to exceed 30 days from the date the Notice of Recapture Letter is received by the borrower);

(iii) Appeal rights as set forth in subpart B of part 1900 of this chapter;

(iv) If the borrower disagrees with the FmHA appraisal, the borrower may appeal the appraisal. If the borrower appeals the current market appraisal, he/she may request an independent appraisal. If the difference between the FmHA appraisal and independent appraisal is not more than five percent, the borrower must choose the appraisal to be used to process the request. The borrower will select an appraiser from the list of FmHA approved appraisers. The selection of the appraiser must be made by the borrower within 15 days of the receipt of the recapture due letter;

(v) Any appeal under this section will be concluded prior to any further action by FmHA; and

(vi) If the borrower does not appeal within 30 days or does not pay the amount, FmHA will proceed as set forth in § 1951.907(e) of this subpart.

(b) *Recapture under Shared Appreciation Agreements.* Recapture of any appreciation will take place at the end of the term of the agreement, or sooner, if the following occurs:

(1) On the conveyance of the real estate security by the borrower; however, transfer of title to the spouse of the borrower on the death of such borrower, will not be treated by FmHA as a conveyance. Recapture will take place if the surviving spouse conveys the subject property, or at the end of the term of the recapture agreement, whichever comes first;

(2) On the repayment of the loans;

(3) If the borrower/spouse ceases farming operations; or

(4) Five months prior to the end of the term of the Shared Appreciation Agreement. The County Supervisor will inform the borrower by letter of the following:

(i) The date the recapture is due;

(ii) The borrower must select an FmHA approved appraiser from the list provided to establish the current market value of the property subject to recapture;

(iii) The cost of such appraisal is to be shared equally by FmHA and the borrower; and

(iv) The borrower must inform FmHA of the appraiser selected within 15 days from the date of the letter indicated in paragraph (a)(5)(iv) of this section.

(c) *Procedures for recapture at the end of Shared Appreciation Agreement:* (1) The borrower will be notified by certified mail, return receipt requested, of the recapture amount due and

payable. This notification letter will also include the recapture calculations and appeal rights. If the borrower cannot obtain satisfactory financing to pay the recapture, the amount to be recaptured will be identified on a new promissory note as a non-program loan at ineligible rates and terms. If the borrower is financially capable of paying the recapture, as determined by the FmHA County Committee and the payment is not made by the borrower within 180 days from the date due, the borrower's account will be treated as delinquent and FmHA will send attachments 1 and 2 of exhibit A of this subpart. The FmHA field office will input via the field office terminal system the information to establish a recapture receivable account in the Finance Office.

(2) The County Supervisor will issue Form FmHA 451.2, "Schedule of Remittance," for all the payments received under the recapture agreement. The following should be recorded in the body of the form: "Equity Receivable Payment."

(3) When the full amount of the shared appreciation and the remaining FmHA indebtedness have been paid and credited to the borrower's account, the borrower will be released from personal liability. Notes evidencing debts and shared appreciation agreements will be marked "Paid in Full" and returned to the debtor or to the debtor's legal representative. In such cases, the security instrument(s) will be released of record in the usual manner.

(4) If the County Supervisor determines there is no recapture due, the County Supervisor will close the borrower's equity record in accordance with the provisions of the ADPS manual.

§ 1951.915 [Reserved]

§ 1951.916 Exception authority.

The Administrator or delegate may, in individual cases, make an exception to any requirement or provision of this subpart or address any omission of this subpart which is not consistent with the authorizing statute or other applicable law if the Administrator determines that the Government's interest would be adversely affected. The Administrator will exercise this authority upon request of the State Director with recommendation of the appropriate Program Assistant Administrator, or upon request initiated by the appropriate Program Assistant Administrator. Requests for exceptions must be made in writing and supported with documentation to explain the adverse effect, propose alternative courses of action, and show how the

adverse effect will be eliminated or minimized if the exception is granted.

§ 1951.917 FmHA Debt Restructuring Support Teams (DRST).

(a) *State Office DRST.* Each State Director shall form DRSTs to be deployed when unusually large numbers of Primary and Preservation Servicing applications are received. DRSTs shall assist in expediting the processing of both Primary and Preservation Loan Service Program applications.

(1) State Directors shall use the DRSTs formed in their State(s) and all other FmHA personnel within their State(s) in processing Primary and Preservation Loan Service applications. If additional help is needed beyond that available in the State, including the use of overtime, temporary personnel, and/or private contractors, the State Director shall advise the National Office of these needs and request assistance.

(2) Upon request of a State Director, the Administrator will consider detailing DRSTs from other States to assist in processing Primary and Preservation Loan Service applications.

(3) State DRSTs will consist of a team leader and team members, selected by the State Director.

(4) State DRSTs will be trained as follows:

(i) The National Office will participate in training meetings or workshops for DRST leaders as requested; and

(ii) States will be responsible for training and keeping the State team currently informed on all phases of processing applications for Primary and Preservation Programs.

(5) Each State Director will issue a State supplement establishing a DRST for the State(s) under his/her jurisdiction. This supplement will name the team leader and all members. A copy of this supplement will be sent to the National Office, Attention: Assistant Administrator, Farmer Programs.

(b) *National Office DRST Leaders.* The National Office will establish a cadre of DRST team leaders.

(1) National Office team leaders will be used as follows:

(i) Assisting State Directors in training of FmHA field personnel, other USDA personnel, and temporary personnel in the processing of Primary and Preservation Loan Service Program applications;

(ii) Assisting State Directors in the organizing and expediting of assistance to eligible applicants; and

(iii) Leading DRSTs in areas with an unusually large volume of Primary and Preservation Loan Service Program applications.

(2) Upon request from a State Director, the Assistant Administrator, Farmer Programs, will consider detailing one or more National Office team leaders to assist in the training of personnel and organizing of the processing of Primary and Preservation Loan Service Program applications.

§ 1951.918 FmHA Debt Restructuring Assessment Teams (DRAT).

The State Director will deploy DRATs on a continuing basis to monitor debt restructuring processing activities in order to minimize processing errors, especially in calculating net recovery and writedown calculations and eligibility determinations. Such teams will be composed of State Office Farmer Programs staff members, District Directors or Assistant District Directors, Office Management Assistants/Program Review Assistants, and Auditors from the Office of Inspector General, if they desire to participate. The team leader will keep the State Director informed by telephone and by submission of weekly written reports, setting forth the problems discovered and the corrective actions taken or to be taken. The State Director will keep all County and District Offices in the designated area of the State informed of the common problems found by the team and require appropriate corrective action to be taken by the County Offices. Such actions will be monitored by the District Director and reported to the State Director when corrective measures have been completed. State Directors will monitor the handling of this quality control measure. The Assistant Administrator, Farmer Programs, will monitor States quality control procedures.

§§ 1951.919-1951.949 (Reserved)

§ 1951.950 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575-0133. Public reporting burden for this collection of information is estimated to average five minutes per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork

Reduction Project (OMB# 0575-0133), Washington, DC 20503.

11. Exhibit A of subpart S with attachments 1, 2, 3 and 4 is revised and attachments 5-A, 6-A, 9-A, and 10-A are added to read as follows:

Exhibit A—Notice of the Availability of Loan Service and Debt Settlement Programs for Delinquent Farm Borrowers

Note to County Supervisor: This Exhibit will be sent to all borrowers who are 30 days behind schedule on their farmer program payments and to all such borrowers who become 180 days behind schedule and do not respond to the 30-day notice.

Dear (Borrower's Name): This notice is to inform you that you are behind with your loan payments and to inform you of your options. Farmers who are more than 30 days late in making payments have several options.

I. Loan Service Programs Available

Primary loan service programs are intended to adjust the debt so that you can continue farming and the FmHA will receive a better recovery on the money it loaned you.

Preservation loan service programs are intended to help farmers who may lose their land to FmHA get their farmland and/or their home back through a lease with an option to buy.

II. Application Information

Time Limits

You must notify FmHA within 60 days of getting this notice if you want these programs.

If you are less than 180 days delinquent when you receive this notice and do not respond, you will be renotified when you become 180 days delinquent. However, if you timely respond, you will not be renotified when you become 180 days delinquent.

How to Apply

To apply, you must complete and return the required forms you get with this notice, including your signed Acknowledgement Of Notice Of Program Availability within the 60-day time limit.

How Soon Will You Know if You Qualify

FmHA has 90 days to process your completed forms and let you know if you qualify.

Included With This Notice You Will Find:

- (1) A summary of primary loan service programs options
- (2) A summary of preservation loan service programs
- (3) A summary of debt settlement programs
- (4) The forms you need to apply for services
- (5) Information on how to get copies of FmHA regulations
- (6) A description of the FmHA appeals process.

III. Foreclosure and Liquidation

What Happens if You Do Not Apply Within 60 Days?

FmHA will take steps to begin the acceleration of your loan if you are more than

180 days delinquent. Acceleration of your loan is very severe. This means FmHA will take legal action to collect all the money you owe them.

After acceleration, FmHA will start foreclosure proceedings. They will repossess or take legal action to take any real estate, personal property, crops, livestock, equipment, or any other assets in which FmHA has a security interest. FmHA will also stop allowing you to use your crop, livestock, and milk checks to pay living and operating expenses. FmHA may also take by administrative offset money which other federal agencies owe you.

Sincerely,

County Supervisor,

Farmers Home Administration, United States Department of Agriculture.

Attachment 1—Primary and Preservation Loan Service and Debt Settlement Programs Purpose

Note to County Supervisor:

This attachment will be provided to every borrower who requests Primary and/or Preservation Loan Servicing Programs and to every borrower FmHA contacts in regard to monetary, non-monetary default or in financial distress.

Purpose

These FmHA programs are to help you repay the loan and keep your farm property and settle your debt to FmHA. This notice tells you:

- (1) How to get more information
- (2) How to apply
- (3) Your appeal rights if you apply and are turned down

How to Get More Information

Ask at any FmHA County Office for copies of the FmHA rules describing these programs. These rules must be given to you within 10 days.

Who Can Apply?

All "farmer program borrowers" who have one of the following loans:

- Operating (OL)
- Farm Ownership (FO)
- Emergency (EM)
- Economic Emergency (EE)
- Soil and Water (SW)
- Recreation (RL)
- Rural Housing Loans made for farm service buildings (RHF)
- Economic Opportunity (EO)

Borrowers that are current on their scheduled payments but are financially distressed through no fault of their own may be eligible for some assistance to restructure their debt.

You May Need Help in Applying

The legal requirements for these programs are very complicated. You may need help to understand them. You may want to ask an attorney to help you. If you cannot get an attorney, there are organizations that give free or low-cost advice to farmers. Ask your State Department of Agriculture or the USDA Extension Service what services are available to your state.

Note: FmHA County Supervisors cannot recommend a particular attorney or organization.

I. Primary Loan Service Programs

(1) Loan Consolidation

Two or more of the same type of loans can be combined into one larger loan. For example, operating loans can only be joined with operating loans and farm ownership loans with farm ownership loans.

(2) Loan Rescheduling

The payment schedule can be altered to give you longer to repay loans secured by equipment, livestock, or crops. For example, the time for repayment of an operating-type loan can be extended up to 15 years. When a loan is rescheduled, the interest rate may be reduced.

(3) Loan Reamortization

The payment schedule can be changed to give you longer to repay loans secured by real estate. For example, a Farm Ownership loan payback period may be extended to 40 years from the date the original loan was signed. When a loan is reamortized, the interest rate may be reduced.

(4) Interest Rate Reduction

Regular Interest Rate

FmHA has specific interest rates for each type of loan. These interest rates change quite often. They depend on what it costs the Government to borrow money. Each type of loan will have a regular rate.

Limited Resource Interest Rate

If you have an Operating Loan (OL), Soil and Water (SW) loan or a Farm Ownership (FO) loan, it may be possible for you to get a "limited resource interest rate." The limited resource interest rate can be as low as 5 percent. It changes quite often and depends on what it cost the Government to borrow money.

Interest Rate for Loan Servicing

When loans are consolidated, rescheduled, or reamortized, the interest rate on the new loan will be either the interest rate on the original loan or the current regular rate of interest for that type of loan, whichever is less. The borrower may be able to get the limited resource interest rate on OL, SW, or FO loans.

For information about current interest rates, contact the FmHA County Office.

(5) Loan Deferral

Payments of principal and interest can be temporarily delayed for up to 5 years. You must show that you cannot pay essential living expenses or maintain your property and pay your debts. You must also show you will be able to pay at the end of the deferral period.

The interest rate on a deferred loan will be either the current rate of interest for loans of the same type or the original rate on the loan, whichever one is lower.

The interest that builds up during the deferral period will be added to the principal of the loan. You must pay this interest in yearly payments for the rest of the loan term.

Note: You can only get a loan deferral if the FmHA determines options 1-4 will not work for you.

Note: FmHA Softwood Timber Programs. Marginal land including highly erodible land

and pasture can be planted in softwood timber. If you qualify, a debt of up to \$1,000 an acre can be deferred up to 45 years. Interest will be charged during the deferral period. The debt must be paid when the timber is sold.

Note: Conservation Easements. Use of highly erodible land, wetlands, or wildlife habitat can be signed over to the Secretary of Agriculture for a reduction in your debt. The amount of land left after the conservation easement must be enough to continue your farming operation.

(6) Debt Writedown

This is not available to borrowers who are current in their loan payments.

Debt writedown means the FmHA debt you owe is reduced. FmHA can reduce both the principal and interest of your debt. Your debt can be reduced to the recovery value.

Recovery value. The recovery value is the fair market value of the collateral pledged as security for FmHA loans minus all of the expenses such as sale costs, attorneys' fees, management costs, taxes and payment of prior liens on the collateral that FmHA would have to pay if it foreclosed on and sold the collateral. The fair market value of any collateral that is not in your possession and has not been released for sale by FmHA in writing will also be used in determining recovery value. Also considered will be the fair market value of any other assets that you may own that are not essential for family living or for farm operation, and are not exempt from your judgment creditors or in a bankruptcy action, minus the value of any creditors' prior security interests and your selling costs. The value of the collateral and any other assets must be decided by a qualified appraiser.

In order to get debt writedown, you must show that you will have enough money to pay all of your family living and farming operating expenses and up to 105 percent but not less than 100 percent of your scheduled debt payments. FmHA will not deny your request if you cannot make the full 105 percent of your scheduled debt payments including making payments on your FmHA debt once part of the loan is written down. This means you must have a feasible plan of operation. FmHA will never write down more of the debt than is necessary for you to show a feasible plan.

The writedown is used only when the loan servicing programs listed in programs 1-5 above alone will not be enough for you to have a feasible plan. If you get writedown, some of the principal and interest on your loan(s) will be written down in addition to changing the payback period, and possibly the interest rate, using programs 1-5 above.

You can receive only one writedown or one buyout in your lifetime for new applications filed on or after November 28, 1990. (See part VIII of this notice for a discussion of buyouts.) Any writedown received on an application submitted before November 28, 1990, will not be counted toward this one-time limit. Also, you have a maximum lifetime limit of \$300,000 for writedown or writeoff (with buyout) on any application submitted on or after November 28, 1990.

II. Who Can Qualify for Primary Loan Service Programs

To qualify you must prove that:

(1) You cannot repay your FmHA debt due to circumstances beyond your control. If you have certain nonessential assets with a value high enough to bring your account current, then you are not eligible for Primary Loan Service Programs. These assets are only those that are not essential for necessary family living or for your farm operation. FmHA cannot reduce or write off any of your debt that you could pay by selling any of these assets or borrowing against your equity in such assets.

You must have had less income than expected due to such things as:

- (a) A natural disaster, weather, or insect problems,
- (b) Family illness or injury,
- (c) Loss or reduction of off-farm income,
- (d) Disease in your livestock,
- (e) Low commodity prices and high operating expenses in your local area, or
- (f) Other circumstances beyond your control; and

(2) You have acted in "good faith" to keep your agreements with FmHA in that you have kept all written agreements with FmHA including those for the use of proceeds and release of property used to secure the loan, and your file shows no fraud, waste, or conversion.

(3) You must agree to give FmHA a lien on certain other assets for additional security for the FmHA debt. If you are offered restructuring and accept the offer, you must provide this lien at closing.

Who Will Decide if You Qualify?

The FmHA County Supervisor will decide if you qualify. The County Supervisor will decide whether you can pay as much or more on the loan as FmHA would get if they foreclosed and sold the collateral for the loan plus the value of any nonessential assets. To do this, the County Supervisor must decide whether the total payments of principal and interest on your adjusted debt will be at least as much as the "recovery value" explained under part I(6) above.

How Soon Will You Know?

Within 90 days from the day you apply you will get a copy of the County Supervisor's analysis and decision.

Can You Get Your Debts Written Down?

Only if FmHA will get as much or more by writing down part of your debt than through foreclosure or sale of the collateral for the loan and any nonessential assets. You also must be delinquent on your FmHA debt payments.

Conditions of the New Agreement if You Qualify

You must sign a shared appreciation agreement. Under the terms of the agreement:

- You must repay a part of the sum written down.

- The amount you must repay depends on how much your real estate collateral increases in value.

- The shared appreciation agreement will not last longer than 10 years.

During this 10 years, FmHA will ask you to repay part of the debt written down if you do any of the following things:

- (1) Sell or convey the real estate
- (2) Stop farming
- (3) Pay off the entire debt

If you do not do any of these things during the 10 years, FmHA will ask you to repay part of the debt written down at the end of the 10 years.

FmHA can only ask you to repay if the value of your real estate collateral goes up.

In the first four years of the agreement, FmHA will ask you to pay 75 percent of the increase in value of the real estate. In the last 6 years, you will be asked to pay only 50 percent of the increase in value. However, FmHA can never ask you to pay more than the amount of the debt written down.

Date to Begin Restructured Agreement

If you are found eligible, you will be informed of the date for an appointment so your debt can be restructured. You must notify FmHA that you accept its offer to restructure your debt within 45 days of when you receive the offer.

III. Preservation Loan Service Programs

Purpose

These programs apply when the primary loan service programs cannot help you.

Programs Available

(1) **Homestead Protection.** (Keeping your farm home.) You may lease your farm home and outbuildings plus a limited amount of land. The limit on the land you can retain is up to 10 acres. The lease time will be for up to 5 years. The lease will include an option to buy back the property you lease.

(2) **Farmland Leaseback/Buyback.** You can either lease or buy back your farm and ranch real property. This includes any on farm residence, and any off farm principal residence of the farm operator which is pledged as security for your FmHA loan from FmHA. (The lease will contain an option to buy.)

IV. Who Can Qualify for Homestead Protection?

(1) Your gross annual income from your farm and/or ranch must have been similar to other comparable operations in your area. This must be true for at least 2 years of the last 6 years.

(2) Sixty percent (60%) of your gross annual income in at least 2 of the last 6 years must have come from the farming operation.

(3) You must have lived in your homestead property for 6 years immediately before your application. If you had to leave for less than 12 months during the 6-year period and you had no control over the circumstances, you still may qualify.

(4) If FmHA has already taken your property, you must apply within 90 days of the date FmHA took your property. (FmHA must notify you within 30 days of taking your property.)

(5) You must be the owner or former owner of the property.

How to Lease Your Dwelling

(1) You may lease your home and up to 10 acres if you pay FmHA reasonable rent. The

rent prices FmHA charges you will be similar to comparable property in your area.

(2) You must maintain the property in good condition during the term of the lease.

(3) You may lease for up to 5 years.

(4) You cannot sublease your property.

(5) If you do not keep up your rental payments to FmHA, FmHA will evict you and force you to leave. Before FmHA forces you to leave, they must let you appeal. FmHA must also follow the laws of your state.

Note: You can buy back your property at current market value at any time during the lease. FmHA may place an easement on your property to protect and restore any wetlands or converted wetlands. Current market value will be decided by an independent appraiser. The appraisal will be made within 6 months of your application for homestead protection. The appraised value of your property will reflect the value of the land due to any placement of a wetland conservation easement.

V. How to Lease Back or Buy Back Farmland Property

Under certain conditions you may lease or buy back your farm and ranch real property. If you applied for primary loan servicing, and do not qualify (see part VIII below), you will automatically be considered for leaseback/buyback. You can enter into a preacquisition agreement for leaseback/buyback of your farm prior to FmHA acquiring title to the property. To do this, you must convey your property to FmHA. FmHA will only accept the property if it is in the Government's financial interest. You can also apply if FmHA takes title to your farmland. If FmHA does not get title to your land because someone else buys it, you will not get leaseback/buyback.

You will have the opportunity to buy the farm during the period of the lease. You can buy the farm for cash or you may apply for FmHA financing of the purchase.

How Long Do I Have to Decide?

If FmHA takes your farmland, you will have 180 days after FmHA takes it to apply to purchase or lease your property. (Some states give you a longer time period.)

Who Can Apply to Buy or Lease Back?

(See next page for the order of these rights.)

(1) Buyback or leaseback rights apply to you, your spouse, and any one of your children if they also have been actively involved in farming.

(2) Members of family-held corporations if the corporation had the loan from FmHA and if the family member is actively engaged in farming.

(3) Members of family partnerships or joint operations who were responsible to pay the FmHA loan and if the family member is actively engaged in farming.

(4) A tenant operator (lessee) who operated the farm.

Note: You must notify your family of their right to lease or buy back. If you are an entity i.e., partnership, corporation, etc., you must notify the entity members of this right. If you rented out the property when FmHA took it into inventory, please tell FmHA the name

and address of the lessee. FmHA will then notify the lessee.

Your spouse and your children's rights, and the rights of entity members, exist only if FmHA takes the property into inventory.

You should be aware that any real property, located in special areas or having special characteristics, which comes into FmHA's inventory, may have restrictions and/or easements placed on the property which prevent your use of all or a portion of the property, should you choose to lease or buy your former farm and/or dwelling. These restrictions and encumbrances will be placed in leases and in deeds on farms containing wetlands, floodplains, endangered species, wild and scenic rivers, historic and cultural properties, coastal barriers, and highly erodible soils.

Order of Rights to Buy or Lease Back

(1) The former owner has first right. His/her right to be considered will last for 180 days from the time FmHA gets title to the land.

(2) The former owner's spouse or children (if the former owner was an individual) has the second right. However, if the former owner was an entity, then the entity members of a corporation, partnership, joint operation or cooperative have the second right to buy or lease back. Their right to be considered will last for 180 days (i.e., 10 days more than owner's 180 days).

(3) The operator, if he/she is not owner of the property and was operating the property when FmHA took it into inventory, has the third right. The operator has 30 days after receipt of a notice about leaseback/buyback to notify FmHA.

Note: If the land is on an Indian reservation and was owned by a tribe member, FmHA will make special offers to tribal members. FmHA will do this after the time period for owner/family leaseback/buyback has passed.

Who Can Qualify for Buybacks Financed by FmHA or Leasebacks?

(1) You must have enough financial and management skills to show you will be successful in the farming operation.

Note: If you get financing from someone other than FmHA, you will need to meet the requirement of the lender for financial and management skills.

(2) You must give FmHA a farm plan that shows you have a reasonable chance of being successful.

(3) The rental price must be based on reasonable rent for the same type of property in your area.

(4) The purchase price will be the property's appraised market value.

(5) You must have acted in "good faith" to keep your agreements with FmHA in that you have kept all written agreements with FmHA including those agreements for the use of proceeds and release of property used to secure the loan and your file shows no fraud, waste, or conversion.

VI. Debt Settlement Programs.

Purpose

These programs apply after it has been determined that primary loan service programs cannot help you. You may be

eligible for both debt settlement and preservation loan service programs. If you do not have FmHA collateral you will need to apply for debt settlement only. Under these programs, the debt you owe FmHA may be settled for less than the amount you owe. You may apply for debt settlement at any time by submitting an application for debt settlement on Form FmHA 1956-1.

Programs Available

(1) Compromise offer: A lump-sum payment of less than the total FmHA debt owed.

(2) Adjustment offer: One or more payments of less than the total amount owed to FmHA. Your payments can be spread out over a maximum of five years if FmHA decides you will be able to make the payments as they become due.

(3) Cancellation: The final settlement of a debt without any payment. FmHA must determine there is no FmHA security or other assets from which FmHA can collect. You must be unable to pay any part of the debt now or in the future.

(4) Chargeoff: FmHA may use this option to write off debt and terminate collection activity without release of your personal liability for the FmHA debt. The same conditions for cancellation apply here.

Approval Requirements

If you sell your collateral, you must apply the proceeds from the sale to your FmHA account before you can be considered for debt settlement. In the case of compromise and adjustment, however, you may keep your collateral if you are unable to pay your total FmHA debt and pay FmHA the present fair market value of your collateral along with any additional amount you are able to pay as determined by FmHA. You will be allowed to retain a reasonable equity in essential nonsecurity property to continue your normal operations and meet minimum family living expenses. FmHA will not finance a compromise or adjustment offer.

All debt settlements of farmer program loans must be recommended by the FmHA County Committee with a finding that the statements on your application are true. The committee must certify that you do not have assets or income in addition to what you stated in your application. If you qualify, your application must also be approved by the FmHA State Director or the FmHA Administrator depending on the amount of the debt to be settled.

VII. How To Apply for Primary and Preservation Loan Servicing Programs

Application Forms

These forms should be included with this notice. If they are not, you can obtain them from the FmHA County Office or as directed below. The forms required are listed below.

Form number Title

(1) FmHA 410-1 Application for FmHA Services. (The financial statement on this form must include information no more than 90 days old. The financial statement must be for all individuals, corporations, or partnerships personally liable for the FmHA debt.)

(2) FmHA 410-8 Application Reference Letters.

(3) FmHA 410-9 Statement Regarding Privacy Act.

(4) FmHA 431-2 Farm and Home Plan. You may request the County Supervisor to assist you in completing your plans.

(5) FmHA 440-32 Request for Statement of Debts and Collateral.

(6) FmHA 1910-5 Request for Verification of Employment.

(7) FmHA 1924-1 Development Plan (if you are planning to make major changes in your farming operation). The County Supervisor can assist and advise you on any additional information that may be needed.

(8) FmHA 1956-1 Application for Settlement of Indebtedness. (Complete this form only if you wish to apply for debt settlement.)

(9) SCS-CPA-026 Highly Erodible Land and Wetland Conservation Determination. (This form must be obtained from and completed in the Soil Conservation Service office.)

(10) AD-1026 Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification. (This form must be obtained from and completed in the Agricultural Stabilization and Conservation Service office.)

Note:

For Conservation Easement only, obtain the Agricultural Stabilization and Conservation Service or Soil Conservation Service photo of your farm. Show approximate number of acres you wish to use for a conservation easement.

Time To Apply for Primary and Preservation Loan Servicing Programs

To apply, you must complete the appropriate forms and return them to the FmHA County office within 60 days from the date you received this notice. If you are less than 180 days delinquent and do not choose to return the forms, you will receive a second notice when you are 180 days delinquent.

If you are less than 180 days delinquent and you return the forms within the required time, you will not be renotified when you are 180 days delinquent.

VIII. What Happens When You Are Not Eligible for Primary Loan Service Programs?

If the County Supervisor decides you are not eligible, you may request a meeting with the County Supervisor so he/she can explain the decision. If you think the County Supervisor's decision is wrong, you can tell him/her why. If you can make the necessary realistic changes to your Farm and Home Plan to show a feasible plan, you should show these changes to the County Supervisor.

Negotiation of the Appraisal

A negotiation of the appraisal is a process whereby the borrower objects to the FmHA appraisal, obtains an independent appraisal at their own costs, pays one-half of the cost for a third appraisal, and the average of the two appraisals closest in value is taken as the final appraised value to be used in considering restructuring. In all cases of primary and preservation loan servicing where the borrower presents an independent

appraisal which is conducted by a qualified appraiser and is within 5 percent of the value of the FmHA appraisal, the borrower must choose one of these two appraisals for the County Supervisor to use to continue processing the request. Borrowers who request to negotiate the appraisal do not have rights to an FmHA appeal of the final appraisal.

You May Request Mediation of Other Loans

If you cannot show a feasible farm plan because you owe too much to other creditors and suppliers, FmHA will help you try to get your other creditors to adjust your debts. This will be done by FmHA asking for mediation if your State has a mediation program approved by the United States Department of Agriculture. If there is no State mediation program, FmHA will try to set up a meeting with your other creditors and suppliers if it can be shown that a reduction in these debts can provide a feasible farm plan. If you object to the FmHA appraisal, you may ask FmHA to negotiate the appraisal prior to mediation.

You Have the Right to Appeal

(1) *Appeal Hearing.* If you do not convince the County Supervisor that you should get primary loan servicing or were unable to resolve the problem through mediation, you have a right to appeal the decision. The County Supervisor must send you a letter after the meeting that explains his/her decision. The letter must also say you have 30 days to ask for an appeal hearing. You can present witnesses and documents and ask FmHA questions at the hearing. The appeal hearing is recorded, and you can get a copy of the transcript of the hearing if you pay for the copying costs.

(2) *Review.* If you do not win at the appeal hearing, FmHA must tell you why and let you ask for a review of that decision. The transcript and the documents used at the hearing will be reviewed when you ask for a review of the appeal hearing decision.

You May Buyout (Pay Off) Your Loan at the "Recovery Value"

(1) *Recovery Value.* If the analysis of your debt shows that you cannot "cash flow" even if your debt to FmHA is reduced to the recovery value of the collateral, the County Supervisor will send you a letter saying you can buyout the loan by paying the "recovery value." The recovery value is described in more detail in section I(6) of this notice.

(2) *Limits.* You can receive only one writedown or buyout in a lifetime. If you received a writedown or buyout on an application filed on or before November 28, 1990, the writedown will not be counted toward the limit. In such cases, you would be entitled to either one more writedown or a buyout. Also, for a writedown or buyout, you are limited to a lifetime maximum of \$300,000 writeoff or writedown.

(3) *Eligibility.* To qualify you must prove that:

You cannot repay your FmHA delinquent debt which was due to circumstances beyond your control.

You have acted in good faith, and

The value of your restructured loan is less than the recovery value.

(4) *Time Limit.* If you want to pay off the loan at "recovery value," you must pay FmHA within 90 days of the date you receive the offer. If you appeal the County Supervisor's decision not to give you primary loan servicing, this 90 days will not start until all appeal hearings and appeal reviews end.

(5) *Cash.* If you pay off the loan at net recovery value, you must pay in cash. FmHA will not make or guarantee a loan for this purpose.

(6) *You Must Sign a Net Recovery Buy Out Recapture Agreement.* The agreement asks you to repay all or part of the amount of your debt FmHA writes off if you sell or otherwise convey your real estate collateral. The amount you repay depends upon the market value of your real estate collateral on the date you sell or otherwise convey it.

The agreement will not last longer than 10 years.

Consideration for Preservation Loan Service Programs

You will be considered for preservation loan service programs if:

(1) You applied for primary loan servicing as required and did not qualify.

(2) You do not appeal your primary loan servicing denial, or do not win your appeal.

(3) You do not pay off the loan at recovery value.

FmHA will consider you for preservation loan service programs after the 90-day time period you have to pay off the loan at recovery value.

Consideration for Homestead Protection and/or Farmland Leaseback/Buyback Agreement

You will be considered for preservation loan service programs if you:

(1) Meet the conditions described above, and

(2) Agree to give FmHA title to your land at the time FmHA signs the written homestead protection and/or farmland leaseback/buyback agreement with you. FmHA will not accept title and will deny your preservation request if it is not in FmHA's best financial interest to accept title. FmHA will figure the costs of taking title including the cost of paying other creditors who have outstanding liens on the property. FmHA will take title only if it can obtain a recovery on its cost. Any written agreement for preservation loan servicing will include the amount you must pay for rent, the number of years you can rent, and an option to buy.

FmHA may consider you for homestead protection and farmland leaseback/buyback on your real estate and, at the same time, consider you for buyback of your equipment and any other non-real estate collateral at market value.

Consideration for Debt Settlement Programs

If you wish to be considered for debt settlement, you will need to request and return a completed Form FmHA 1956-1. You may request debt settlement at any time. Usually, the most appropriate time for making this request is when FmHA has determined that Primary Servicing options will not provide the best net recovery to the Government and you are requesting preservation loan servicing. If you no longer have any security remaining for the

outstanding FmHA loans, you may want to request debt settlement instead of primary and preservation loan servicing

IX. What Happens When You Are Turned Down for Preservation Loan Service Programs and/or Debt Settlement Programs?

You Can Appeal

If FmHA decides that you cannot get homestead protection and/or farmland leaseback/buyback and/or debt settlement you can ask for:

(1) A meeting with FmHA to discuss the decision, and

(2) An appeal hearing.

The Right to a Meeting

The County Supervisor will send you a letter telling you why FmHA decided not to give you homestead protection or farmland leaseback/buyback and/or debt settlement. That letter will give you 15 days to ask for a meeting with FmHA.

The Right to an Appeal Hearing

If you do not convince FmHA at the meeting to change their decision, FmHA will send you another letter giving you 30 days to request an appeal hearing.

At the appeal hearing, you can contest FmHA's rental price and its decision not to give you homestead protection and/or farmland leaseback/buyback. You can also contest FmHA's decision to reject your debt settlement application.

The Right to a Review

If you do not win the appeal hearing, FmHA must let you ask for a further review. The recorded transcript of the hearing will be reviewed at this stage. You can get a copy of the transcript by paying the copying costs.

X. What Happens if You Do Not Win the Appeal for Preservation Loan Service Programs and/or Debt Settlement Programs?

FmHA will accelerate your loan account and call in the whole debt. FmHA will stop allowing you to use any of your crop, livestock, and milk checks, on which they have a claim, to pay for living and operating expenses. FmHA will also repossess the collateral or start legal foreclosure or liquidation proceedings to take and sell the collateral, including your equipment, livestock, crops, and land. After acceleration, FmHA may also take by administrative offset money which other Federal Government agencies owe you.

FmHA will take these actions unless you do one of the following things with FmHA's approval:

(1) Sell all the collateral for the loan at market value.

(2) Convey (legally transfer) the collateral to FmHA.

(3) Apply to transfer the collateral to someone else and have that person assume all or part of the FmHA debt. (This is called transfer and assumption.)

If any of these options result in payment of less than you owe, you may apply or reapply for debt settlement. You may apply or re-apply for homestead protection and farmland leaseback/buyback if FmHA gets title to your land or home through a foreclosure action or

conveyance. You may re-apply for these programs even if you applied before and did not get one of these programs and were not successful on appeal. However, applications for leaseback/buyback or debt settlement filed after the 60-day time period provided in this notice will not delay acceleration and foreclosure.

Attachment 2—Acknowledgement of Notice of Program Availability

Note to County Supervisor

This attachment will be provided to every borrower who requests Primary and/or Preservation Loan Servicing Programs, and to every borrower FmHA contacts in regard to monetary default or financial distress.

I/We have been given a notice explaining the primary and preservation loan service and debt settlement programs.

The date on the notice was _____.

This notice explained that FmHA programs are available to help me keep my property and/or settle my debt with FmHA.

I/We ask FmHA to consider me/us for all of these programs.

I understand that I will be notified of my rights to appeal after FmHA decides on my request.

Signature _____

Date _____

Attachment 3—Notice to Borrowers With Non-Monetary Defaults, Non-Monetary Defaults and Delinquency, or That a Prior Lienholder or Junior Lienholder is Foreclosing

Note to County Supervisor

This attachment will be used to notify borrowers with non-monetary defaults, borrowers with both non-monetary and monetary defaults, and borrowers where a prior or junior lienholder is foreclosing.

Dear _____:

FmHA has reviewed your loan account.

Our record shows:

☐ You are now \$ _____ behind on your payments. This is a violation of your loan agreement.

☐ You have disposed of some of your property used to secure your loan. You did not get written approval for this. This property is _____.

(Describe property.)

☐ You have stopped farming or ranching. This is a violation of your loan agreement.

☐ A foreclosure action has been filed against you by _____. This is a violation of your loan agreement.

☐ You have _____.

(Insert reasons for proposed action.)

FmHA Will Accelerate Your Loans

This means FmHA will take legal action to collect the money you owe. They will foreclose on real estate and repossess equipment and other property used to secure your loans. They will also stop the release of money from the sale of crops or other property. They may take by administrative offset money you are owed by other Federal agencies.

Steps You Can Take Before FmHA Accelerates Your Loans

You can apply for the programs described in attachment 1. These are called Primary and Preservation Loan Service and Debt Settlement Programs. You can also ask for a meeting. At this meeting you can explain why you think FmHA's records, as indicated on this Notice, are wrong. You can also suggest things you can do to correct these problems, so as to void acceleration and foreclosure. You can request loan servicing, debt settlement and a meeting at the same time. For example, if this Notice states that you are delinquent, and also have disposed of property without FmHA's written consent, you can request servicing to deal with the delinquency problem and request a meeting on the question of unauthorized disposition of property. Please read the section on debt settlement programs for guidance in requesting and receiving consideration of a request for debt settlement.

Forms Attached to This Notice

You will find:

- (1) A summary of all primary loan service programs;
- (2) A summary of preservation loan service programs;
- (3) A summary of all debt settlement programs;
- (4) Copies of the forms needed to apply;
- (5) Advice on how to get copies of FmHA regulations; and
- (6) A short description of the FmHA appeal process.

Purpose of Primary Service Programs

These loan service programs are to help you repay the loan and keep your farm property.

Purpose of Preservation Loan Service Programs

These programs are intended to help farmers who may lose their land to FmHA to get their farmland and their home back through a lease with an option to buy.

Purpose of Debt Settlement Programs

These programs apply after it has been determined that primary loan service programs cannot help you. You may be eligible for both debt settlement and preservation loan service programs. If you do not have FmHA collateral you will need to apply for debt settlement only. Under these programs, the debt you owe FmHA may be settled for less than the amount you owe. You may apply for debt settlement at any time by requesting and submitting an application for debt settlement on Form FmHA 1956-1.

How to Apply for Loan Servicing

Complete attachment 4 and the appropriate forms included with this notice.

You must return these within 60 days of getting this notice.

Right to a Meeting

You have the right to meet with your FmHA County Official before they decide to accelerate your loan. You must check the box on attachment 4 saying you want a meeting. (Attachment 4 is the "Response to Notice of Intent to Accelerate and Notice of Borrower Rights.")

How to Ask for a Meeting

You must check the box on attachment 4 asking for a meeting within 15 days from the date of this notice. Return it to your County Office. Do this as soon as possible. It is wise to call also to set up the meeting.

Note: If you ask for loan servicing, the meeting will be delayed until a decision on your loan servicing request is made.

The Right to Appeal

• You can ask for an administrative appeal even if the meeting does not resolve your problems.

• You can ask for an appeal even if you do not have a meeting.

• You have the right to appeal even if you do not want to apply for loan servicing programs and/or debt settlement.

How to Ask for an Appeal

Check the box on attachment 4 and mail it to your County Office within 30 days of getting this notice.

Note: If you do not check the box on the attachment 4 to ask for primary and preservation loan service programs, you will not be considered.

If you do not ask for a meeting you will not get one.

You may still appeal by asking for an administrative appeal on the attached form.

The Right Not To Be Discriminated Against

Federal law does not allow discrimination of any kind. You cannot be denied a loan because of your race, color, religion, national origin, sex, marital status, handicap, or age (if you can legally sign a contract).

You cannot be denied a loan because all or part of your income is from a public assistance program.

You cannot be denied a loan because you exercised your rights under the Consumer Credit Protection Act. You must have exercised these rights in good faith. The Federal Agency responsible for seeing this law is obeyed is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

Sincerely,

County Supervisor, Farmers Home Administration, United States Department of Agriculture

Date: _____

Attachment 4—Response to Notice Informing Me of FmHA's Intent To Accelerate My Loan

Note to County Supervisor

This attachment will be included with attachment 3, when contacting a borrower about non-monetary default, non-monetary default and delinquency, and when a prior or junior lienholder is foreclosing.

Notice of My Rights

To: County Supervisor, Farmers Home Administration

From: _____

(Please print your name and address.)

I have read the notice informing me of FmHA's intent to accelerate my loan which I received with this form.

I want to: (Check one or more of the following boxes)

- ☐ 1. Request a meeting with the FmHA County Office.
My phone number is _____.
I must return this form in 15 days.
I understand I do not lose my right to appeal by asking for a meeting.
- ☐ 2. Be considered for all primary and preservation loan service and debt settlement programs. I must return this form along with all applicable forms in 60 days.
- ☐ 3. Have an administrative appeal hearing. I understand that I will be contacted by FmHA's National Appeals Staff to set up the appeal hearing date and give me more information. I must return this form in 30 days.

Date: _____

Signature: _____

(Sign here.)

Attachment 5-A—Notice of Intent To Accelerate or To Continue Acceleration and Notice of Borrowers' Rights

Note to County Supervisor

This attachment is used when notifying a borrower who returned attachment 2 or 4 of exhibit A, that FmHA cannot provide the assistance requested with the Primary Loan Services Programs.

(To Be Used for Applications Submitted on or After November 28, 1990)

Name and Address _____

Dear (Borrower's Name): _____

You are not eligible for debt restructuring.

I. ☐ FmHA Has Reviewed Your Application for Primary Loan Servicing (Debt Restructuring)

You cannot get primary loan servicing because your Farm and Home Plan does not show you can pay all your family living expenses, farm operating expenses, and scheduled debt repayments even with FmHA help.

To get primary loan servicing, your Farm and Home Plan must show you can pay FmHA at least \$_____ per year.

Note: The attached computer printout summarizes FmHA's calculations based on your application.

II. ☐ FmHA Has Reviewed Your Application and Your Case File

Your Farm and Home Plans shows you can pay all of your family living expenses, farm operating expenses, and scheduled debt repayments if FmHA uses primary loan servicing, softwood timber, and conservation easement programs to restructure your loans.

But you have not acted in good faith.

You have broken your loan agreements with FmHA.

You have broken loan agreements with FmHA in the following way:

- ☐ You are \$_____ behind in your scheduled loan payments.
- ☐ You have sold or gotten rid of property you used to secure the FmHA loan without proper approval from FmHA. You have not acted in good faith. This property is _____

(Describe property.)

- ☐ You have stopped farming or ranching.
- ☐ You have _____

III. ☐ FmHA Has Reviewed Your Application and Case File

You have sufficient nonessential assets to bring your FmHA account current. The net recovery value of FmHA's collateral is \$_____. The net recovery value (NRV) of the nonessential assets is \$_____. Your nonessential assets and their NRVs are as follows:

Nonessential Assets

NRVs

The NRV is the current appraised market value minus any prior liens and any costs of sale such as taxes due, commissions and advertising costs.

The amount needed to bring your FmHA account current is \$_____.

If you intend to sell the nonessential assets or borrow against their value to obtain the money to pay FmHA current, you must do so immediately so that you can pay FmHA current within 90 days from the date you receive this letter.

If you do not pay FmHA current within 90 days or appeal the adverse decision (see part VI of this notice), FmHA will accelerate your account (see part V). If you appeal the decision, the 90-day period to pay FmHA current will not start until all the appeals are completed. You must check the appropriate block on the response form and return it to FmHA within the specified time limit. Since FmHA believes you have sufficient nonessential assets to bring your FmHA account current, you are not now eligible for net recovery buyout (option 5 on attachment 6-A). If you disagree, see part VI for an explanation of your rights.

IV. ☐ You Have Already Received One Writedown or Buyout

- ☐ Your writedown of debt exceeded your lifetime limit of \$300,000.

V. FmHA Intends to Foreclose

FmHA will accelerate your loan because you are not eligible for primary loan servicing.

FmHA will take legal action to collect the money you owe.

FmHA may:

- (1) Repossess and sell your equipment, crops, livestock, livestock products, and other personal property used to secure your FmHA loan;
- (2) Foreclose and sell your real estate mortgaged to FmHA. This could include your dwelling even if your housing account is current, if it was used to secure your farm loan(s);
- (3) Stop any release of money from the sale of crops, livestock, livestock products, or other property you need to live and operate your farm;
- (4) Take by administrative offset any money you are owed by Federal agencies;
- (5) File lawsuits to collect money you owe to FmHA.

VI. What You Can Do to Stop Foreclosure

Before FmHA can take action against you, you can:

- (1) Pay your FmHA account current.
- (2) Request a meeting with the FmHA county official.

If you disagree with FmHA's decision that you broke your loan agreement or the decision not to give you debt restructuring, you should request a meeting with the county FmHA official. The county official can explain the FmHA decision. You can also present changes in your Farm and Home Plan which may show that you can make the amount of payment listed above in Section I.

To ask for this meeting, check the box #1 on the Response Form: (attachment 6-A).

Time limit: You must return the "Response Form" to the county FmHA office within 15 days from the date you get this letter. You should also call the county office to set up the meeting.

- (3) Request an appeal hearing.

You may also request an appeal hearing to contest FmHA's decision. At the hearing you may challenge the ways FmHA says you broke your loan agreements. You may also challenge FmHA's decision that you cannot present a feasible Farm and Home Plan for primary loan servicing if your notice states FmHA believes you cannot present a feasible plan. You may also challenge FmHA's decision that you are ineligible for debt restructuring because you have already received a writedown or buyout.

You can appear at the appeal hearing and present witnesses and documents to support your position.

If you did not previously negotiate your appraisal, you may ask for an independent appraisal of your property including any nonessential assets that FmHA says you own. This independent appraisal may be important if you think FmHA has put too high or too low a value on your property. You will have to pay for this appraisal. The FmHA County Supervisor will give you a list of three appraisers to choose from. Check box #3 on the "Response Form" if you want the independent appraisal. If the FmHA appraisal contains mathematical or property description errors, you and the County Supervisor can make the necessary corrections if you both agree to such changes.

If you submit an independent appraisal and it is within five percent of the value of the FmHA appraisal, you must select which of the two appraisals you want FmHA to use for your request. This will be the final appraisal. It cannot be appealed.

If you request a meeting with the FmHA county official, you will be given a chance to appeal after that meeting.

If you do not want to request the meeting but do want to appeal, you must say so on the enclosed "Response Form."

You may request both the meeting and the appeal hearing on the "Response Form." Check box #2 on the "Response Form" to request an appeal hearing. If you ask for just the appeal hearing, you must return the "Response Form" to FmHA within 30 days of the date you received the letter. If you are appealing the appraisal, you should, if possible, submit a copy of your independent

appraisal to the hearing officer and the County Supervisor prior to the appeal hearing.

(4) Buy out the loan at recovery value.

You have this option only if the recovery value is greater than the value of the restructured loan, you cannot repay your FmHA debt due to circumstances beyond your control, and you have acted in good faith and tried to keep your agreements with FmHA. Also, buyout is subject to a \$300,000 maximum, lifetime limit, and a limit of one buyout per borrower. A further explanation of these limits can be found in the Primary and Preservation Loan Service and Debt Settlement Programs Purpose notice which was sent to you earlier.

You [may] or [may not] buy out your FmHA loan(s) at the recovery value of the property securing the loan and any nonessential assets. The recovery value is \$_____. The restructured loan(s) value is \$_____.

Note to County Supervisor
Circle the appropriate entry.

Note: The attached computer printout summarizes FmHA's calculations.

If you are eligible and pay the recovery value, FmHA will write off the rest of your debt up to \$300,000. If you are eligible to pay the recovery value, FmHA will require you to sign a recapture agreement. This agreement would allow FmHA to require you to pay the difference between the recovery value and the current market value of your real estate securing the loan if you sell it within 10 years of the agreement. FmHA can never recapture more than it wrote off.

Time Limit. If you are eligible and want to buy out your loan(s) at the recovery value, you must pay FmHA within 90 days from the date you received this letter. You must pay FmHA in cash, money order, or certified check.

If you appeal FmHA's adverse decision, the 90-day period to buy out at recovery value will not start until all of the appeals are completed. Check box #3 on the "Response Form" if you want to buy out at recovery value.

(5) Consideration for Homestead Protection, Farmland Leaseback/Buyback and Debt Settlement.

If you do not appeal, or if you do not win your appeal and you do not buy out the loan at recovery value, FmHA will automatically consider you for Homestead protection and farmland leaseback/buyback. [You applied for these programs when you applied for primary loan servicing (debt restructuring).] FmHA will notify you that it will be considering you for these programs and will request some additional information when the time comes to consider you. If you applied for Debt Settlement by returning Form FmHA 1956-1, FmHA will also consider you for this option now. If you did not apply for Debt Settlement before, you can apply now. Copies of Form FmHA 1956-1 are available at your FmHA County Office.

VII. What Happens if You Do Not Respond

If you do not respond to this letter by completing and returning the enclosed attachment 6-A, "Response to Notice of

Intent to Accelerate or Continue with Acceleration and Notice of Borrowers' Rights," FmHA will accelerate or continue with acceleration of your FmHA debts. This is a very severe action. FmHA will take any of the actions listed in Section V above to collect on your debt.

The Right Not To Be Discriminated Against

Federal law does not allow discrimination of any kind. You cannot be denied a loan because of your race, color, religion, national origin, sex, marital status, handicap, or age (if you can legally sign a contract).

You cannot be denied a loan because all or part of your income is from a public assistance program.

You cannot be denied a loan because you exercised your rights under the Consumer Credit Protection Act. You must have exercised these rights in good faith. The Federal Agency responsible for seeing this law is obeyed is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

Sincerely,
County Supervisor, Farmers Home Administration, United States Department of Agriculture

Attachment 6-A—Response to Notice Informing Me of FmHA's Intent To Accelerate or Continue With Acceleration and Notice of My Rights

Note to County Supervisor

This attachment will always be sent with attachment 5-A.

(To be used for application submitted on or after November 28, 1990).

To: County Supervisor, Farmers Home Administration

From: _____

(Please print your name and address.)

I have read the notice informing me of FmHA's intent to accelerate or continue with acceleration of my loan which I received with this response form.

I want to:

[Check appropriate box or boxes.]

☐ (1) Request a meeting with an FmHA county official.

I must return this "Response Form" within 15 days to request a meeting.

My current telephone number is _____.

I understand that I do not lose my appeal rights by asking for this meeting.

☐ (2) Request an appeal hearing.

I must return this "Response Form" within 30 days to request a hearing.

I understand that I will be contacted by FmHA's National Appeals Staff to set up the appeal hearing date and to give more information.

If possible, I should provide the County Supervisor and the hearing officer a copy of my independent appraisal prior to the appeal hearing if I am requesting an appeal of the appraisal.

☐ (3) Request an independent appraisal of my property including any nonessential assets.

I must return this "Response Form" within 30 days to request an independent appraisal.

I understand that I must pay for this appraisal. I understand that the FmHA

County Supervisor will give me names of three appraisers, from which I must choose one if I am also requesting an appeal.

☐ (4) Buy out my loan(s) at the recovery value.

I understand that I must pay FmHA \$_____ in cash, certified check, or money order. I understand that I must pay this to FmHA within 90 days of the date I received this letter, or if I appeal the FmHA decision, I must pay within 90 days from the end of the appeal of the FmHA decision.

☐ (5) Pay my FmHA account current.

I understand that I must pay FmHA \$_____ to pay my account current. I will pay this amount to FmHA within 90 days of the date I received this letter, or if I appeal the FmHA decision, I will pay within 90 days from the end of the appeal of the FmHA decision. I understand that when I pay this amount FmHA will continue with my account.

Borrower's signature _____

Date _____

Attachment 9-A—Notification of Intent to Accelerate or Continue Acceleration of Loans and Notice of Your Rights

Note to County Supervisor

This attachment will be sent to borrowers who are 180 days delinquent, whose accounts have not been accelerated, WHO DID NOT return attachment 2 of exhibit A sent on or after November 28, 1990, or attachment 2 of exhibit F.

(To be used for borrowers receiving notices on or after November 28, 1990)

FmHA will accelerate your loan because you have not asked or have not accepted the offer for primary loan service programs.

You can:

(1) Ask for meeting with your FmHA

County official.

(2) Appeal FmHA's decision.

(3) Ask to voluntarily sign over to FmHA the property used to secure your loan and ask to be released from your debt.

(4) Apply for a leaseback or buyback of your farm real estate once FmHA has taken it.

(5) Ask to keep your home after FmHA has taken it.

Dear (Borrower's Name):

You are behind with your payments to FmHA, and a review of your account shows:

☐ You are \$_____ behind in your FmHA loan payments.

This is a violation of your loan agreement.

☐ You have sold or gotten rid of property used to secure your FmHA loan. You did not get written approval for this.

The property is _____

(Describe property.)

☐ You have stopped farming or ranching.

This is a violation of your loan agreement.

☐ You have _____

(Insert reason for proposed action.)

FmHA Will Accelerate Your Loans

This means FmHA will take legal action to collect the money you owe. They will foreclose on real estate and other property used to secure your loans. This could include your dwelling even if your housing account is current, if it was used to secure your farm loan(s). They may also stop the release of money from the sale of crops or other property. They may take by administrative offset any money you are owed by other Federal agencies.

Steps You Can Take Before FmHA Accelerates or Continues Acceleration of Your Loans

(1) *Right to a meeting.* You have the right to meet with an FmHA County official before they decide to accelerate or continue acceleration of your loan. You must check the box on Attachment 10-A saying you want a meeting. [Attachment 10-A is the "Response to Notice of Intent to Accelerate or Continue Acceleration of My Loan."]

How Soon Must I Ask for a Meeting? You must ask for a meeting within 15 days from the date of this notice. Check the box on attachment 10-A. Return it to your County office. Do this as soon as possible.

(2) *The Right to Appeal.* You can ask for an administrative appeal before a hearing officer. You can contest FmHA's decision to accelerate or continue acceleration of your loan. You can ask for an administrative appeal, even if you have asked for a meeting and your problems were not resolved at that meeting. However, you can only appeal an issue once. For example, if you previously appealed a favorable debt restructuring offer and were not successful on appeal, you cannot appeal this offer again.

You can ask for an appeal even if you do not have a meeting.

How to Ask for an Appeal. Check the box on attachment 10-A and mail it to your County Office within 30 days of getting this notice.

What Happens if You Do Not Respond? If you do not respond to this notice by filling out attachment 10-A, FmHA will accelerate or continue acceleration of any loans. This means they will take legal action to collect the unpaid loan, including foreclosure as described above.

Note: Foreclosure means you lose the title to your land. But you can still apply for preservation loan service programs to keep possession of your house or farm if FmHA buys the property at the foreclosure sale. [See exhibit A, attachment 1 sent to you on _____.]

If you did not get these forms, contact your County Office within 15 days of this notice.]

The Right Not To Be Discriminated Against

Federal law does not allow discrimination of any kind. You cannot be denied a loan because of your race, color, religion, national origin, sex, marital status, handicap, or age (if you can legally sign a contract).

You cannot be denied a loan because you exercised your rights under the Consumer Credit Protection Act. You must have exercised these rights in good faith.

The Federal Agency responsible for seeing this law is obeyed is the Federal Trade

Commission, Equal Credit Opportunity,
Washington, DC 20580.

Sincerely,

County Supervisor
Farmers Home Administration
U.S. Department of Agriculture
Date: _____

Attachment 10-A—Response to Notice Informing Me of FmHA's Intent To Accelerate or Continue to Accelerate My Loan

Note to County Supervisor

This attachment will always be sent with attachment 9-A.

(To be used for borrowers receiving notices on or after November 28, 1990.)

Notice of My Rights

To: County Supervisor, Farmers Home Administration
From: _____

(Please print your name and address.)

I want to: (Check one or more of the following boxes)

☐ (1) Request a meeting with the FmHA County Official.

My telephone number is _____
I must return this form within 15 days.

I understand I do not lose my right to appeal if I ask for a meeting.

☐ (2) Voluntarily sign over to FmHA all the property used to secure my loan and settle my debt.

☐ (3) Request an administrative appeal.

I understand that I will be contacted by an official of FmHA's National Appeals Staff to set up an appeal hearing and give me more information. I understand I must request an appeal within 30 days of receiving this notice. I have not previously appealed this issue.

☐ (4) Preservation loan service programs.

Signed _____

Date _____

12. Exhibit B of subpart S is revised and attachment 1 is added to read as follows:

Exhibit B—Notification of Offer to Restructure Debt for Financially Distressed Borrowers Current on Their Loan Payments

(Borrower's Name and Address)

(Date)

Dear (Borrower's Name):

We have determined that the Farmers Home Administration (FmHA) can approve your request for primary loan servicing programs.

Our calculations indicate that you will be able to make the necessary annual payment on your FmHA loan if your loan is restructured through the use of primary loan servicing programs. Therefore, we are offering to restructure your FmHA debt in the following fashion:

(The County Supervisor will fill in the blank by describing exactly what would be done with the borrower's account. For example, if the borrower has a farm ownership loan, the County Supervisor will fill in the blank by

saying that (\$ Amount) of principal and interest on that loan would be reamortized for 40 years from the original date of the loan, or up until (date) at the limited resource interest rate, which is _____ percent.)

The attached computer printout indicates the primary loan servicing program that will help you overcome your financial difficulty and provide the greatest net recovery to the Government.

If you want FmHA to use the primary servicing program identified on the computer printout, you must accept this offer in writing. Your acceptance must be received by FmHA not later than 45 days from your receipt of this letter. You may accept this offer in writing by signing and returning the attached form titled "Acceptance of Offer to Restructure my Debt."

If you do not accept this offer within 45 days, and your account becomes delinquent, FmHA will renotify you of all servicing options available at that time.

Sincerely,

County Supervisor

Attachment 1—Acceptance of Offer to Restructure my Debt

(Date) _____

To: _____

From: (Please print your name and address)

Dear County Supervisor:

I have received your offer to restructure my FmHA debt. I would like to accept that offer.

Sincerely,

(Borrower's signature) _____

(Date)

13. Exhibit C-1 to subpart S is added to read as follows:

Exhibit C-1—Net Recovery Buyout Recapture Agreement

(For applications filed for restructuring on or after November 28, 1990.)

Purpose

This agreement with FmHA will allow you to buy out your loan(s) at the net recovery value.

1. I/we _____ understand and agree to the following conditions.

2. I/We will give FmHA a lien (mortgage or deed of trust) on the FmHA real estate security property I/we own to secure this agreement.

The lien is to secure the maximum recapture amount listed in item 6.c. of this agreement. This lien is secondary to the following lien(s), including any lien used to obtain the net recovery buyout amount up to the net recovery value.

(name, address, and unpaid balance of lien(s))

3. I/We agree that if I/we do not sell or convey any portion of the real estate used as security for 10 years, the agreement and any liability you have under it will be satisfied at the end of 10 years, and then FmHA will release its lien.

Note: Convey includes, but is not limited to, any form of transfer in all or any portion

of the real estate property, including sale, gift, Contract Sale/Purchase Agreement, foreclosure, and below-fair-market sale, but does not include a mortgage or deed of trust. Transfer of title to property to a spouse or child who is actively engaged in farming the property upon the death or retirement of a borrower, will not be treated as a conveyance. In such a transaction, FmHA will not release its lien, and the transferee will assume liability under the agreement.

4. I/we agree that as of the date of this agreement, the net recovery value of the real estate is \$_____.

5. I/we agree that as of the date of this agreement, the total amount of the FmHA debt secured by real estate including principal and interest before buyout is \$_____.

6. If I/we do sell or convey any part or all of this real estate within 10 years of this agreement, I/we must pay FmHA the recapture amount for that part sold or conveyed which is the smaller of a, b., or c.

a. The Fair Market Value of the real estate parcel at the time of the sale or conveyance, as determined by an FmHA appraisal, minus that portion of the recovery value of the real estate represented in item 4, or

b. The Fair Market Value of the real estate parcel at the time of the sale or conveyance, as determined by an FmHA appraisal, minus the unpaid balance of prior liens at the time of the sale or conveyance,

c. The total amount of the FmHA debt written off for loans secured by real estate. I/we agree that this amount is the outstanding balance of principal and interest owed on the FmHA Farmer Programs loan(s) as of the date of this agreement in item 5, minus the net recovery value of the real estate in item 4. This amount is \$_____ and is the maximum amount that can be recaptured.

7. When I/we pay the recapture amount due, FmHA will release its lien on the property sold or conveyed. The agreement and any liability I/we have under it will be satisfied at the end of 10 years if I/we have made all the required payments under the recapture agreement. The agreement and any liability I/we have under it will be satisfied before this time only if I sell or convey all of the real estate securing this agreement and make all the required payments under the agreement.

8. This agreement is subject to FmHA regulations in 7 CFR part 1951, subpart S, and any future regulations which are consistent with this agreement.

9. The date of this agreement is the latest date of the dates below.

Signed _____
(borrower or obligor)

Date _____

Signed _____
(borrower or obligor)

Date _____

(FmHA)

Date _____

14. Exhibit E and attachment 1 to subpart S are revised and attachment 2 is added to read as follows:

Exhibit E—Notification of Request for Mediation or Meeting of Creditors and/or Other Options

(To be used by FmHA to inform borrowers that FmHA is requesting mediation or a voluntary meeting of the borrower's creditors and/or to offer borrowers who submitted applications on or after November 28, 1990, the opportunity to negotiate the FmHA appraisal and/or pay FmHA the net recovery value of any nonessential assets)

(Borrower's Name and Address)

Dear (Borrower's Name):

The Farmers Home Administration (FmHA) has carefully considered your request for primary loan servicing programs. Due to your debt with lenders other than FmHA, you are unable to develop a feasible plan. Your Farm and Home Plan must show that you have enough income after payment of your essential living and operating expenses and other non-FmHA debts to make an annual payment to FmHA of at least \$_____. Your Farm and Home Plan shows that you have only \$_____ to make this annual payment. Attached are the calculations on which our decision is based.

If you did not previously request a Conservation Set-Aside Easement, you may request this servicing action by submitting an ASCS photo indicating that portion of the farm and the appropriate acres to be considered. You must submit this ASCS photo to FmHA within 30 days of receiving this notice.

(Use the appropriate following paragraph, if applicable.)

Paragraph 1

(To be used when Certified State Mediation is available)

Certified State Mediation

We are requesting mediation under the (Name) State Certified Mediation Program. We will work with you and your creditors to determine if your debts can be adjusted sufficiently to permit you to develop a feasible plan of operation. If, with the adjustment of your debt, you are able to develop a feasible plan of operation which shows that you can make an annual payment to FmHA of at least \$_____, FmHA will reconsider your application for primary loan servicing.

Paragraph II

(To be used when Certified State Mediation is not available and undersecured creditors have a substantial part of the total borrower's debt)

Meeting of Creditors

We will schedule a meeting with you and your other creditors in an effort to reach agreements with them to adjust your debts sufficiently to permit you to develop a feasible plan of operation. The FmHA State Director will contract for a mediator or appoint an FmHA representative not previously involved in servicing of your account upon your written request to participate in the meeting with creditors. Please sign the attached acknowledgment within 30 days of the date of this letter. The acknowledgment will be your written request

and consent to FmHA releasing information concerning your account to other creditors who participate in the meeting.

Paragraph III

(To be used when Certified State Mediation is not available and undersecured creditors do not hold a substantial part of the total borrower's debt)

We will not be scheduling a meeting with you and your other creditors in an effort to reach agreements with them to adjust your debts. We have determined that your other creditors do not hold a sufficient amount of your total debt to permit you to develop a feasible plan of operation even if their debts are entirely written off. You may object to our determination not to give you a voluntary meeting of creditors in any appeal you may have. You will be notified of your appeal rights in a later notice.

(The following paragraphs will be removed if the application was submitted Before November 28, 1990, or the borrower does not have any nonessential assets.)

Nonessential Assets

FmHA has determined that you have nonessential assets that do not contribute income to pay essential family living and farm operating expenses. The net recovery value (NRV) of the nonessential assets has been added to the NRV of the FmHA collateral for the calculation on the attached printout. The NRV of the nonessential assets is \$_____. Your nonessential assets and their NRVs are as follows:

Nonessential Assets

NRVs

FmHA encourages you to sell the nonessential assets or borrow against their value. If you pay the NRV of the nonessential assets on your FmHA debt, that amount will be subtracted from your debt and FmHA will reevaluate your servicing request. If you are going to pay FmHA the NRV of your nonessential assets, you must do so within 45 days of the date of receiving this letter. You must check the appropriate block on the response form and return it to FmHA within 45 days with \$_____ for payment of the NRV of the nonessential assets. If you want to reduce the NRV, you must pay FmHA before any mediation or meeting of creditors.

If you wish to dispute FmHA's decision that you own nonessential assets, you will be given the opportunity to appeal if mediation or the meeting of creditors is unsuccessful. If mediation or a meeting of creditors is not held, you will be notified of your appeal rights in a later notice.

Negotiation of the Appraisal

If you object to the FmHA appraisal of your property, you may ask the FmHA by returning the "Response Form" to negotiate the appraisal with you. You must ask to negotiate the FmHA appraisal within 30 days from the date you receive this notice. To do

this you must provide FmHA with a copy of your current independent appraisal or you must now obtain, at your cost, an independent appraisal of your property. The appraisal and the appraiser must meet certain standards published in FmHA regulations.

If you do not have a current independent appraisal and wish FmHA to assist you, check option 2 of the "Response Form" and FmHA will provide you with a list of such appraisers.

You must provide FmHA a copy of your independent appraisal within 30 days of requesting negotiation.

If your current independent appraisal is within five percent of the FmHA appraisal, you must select which appraisal of the two you want FmHA to use in processing your request. The appraisal you select will be the final appraisal. It cannot be further negotiated or appealed. If the difference is more than five percent and you have requested a negotiated appraisal, you and FmHA will choose an independent appraiser to complete a third appraisal. You must pay one-half of the cost of the third appraisal. FmHA will pay for the other half of the third appraisal. You, the appraiser and the County Supervisor must complete and sign an appraisal agreement. Following the completion of the third appraisal, the average of the two appraisals that are closest in value, as determined by FmHA, shall establish the appraised value to be used. This final negotiated appraisal is not appealable. Do not select this option of the "Response Form" if you and FmHA have already negotiated your appraisal.

If you choose not to negotiate and wish to dispute FmHA's appraisal, you will be given the opportunity to appeal in a later notice. If you believe there are mathematical or property description errors in the appraisals, you should immediately contact the County Supervisor. If you and the County Supervisor agree, the corrections will be made and initiated by both you and the County Supervisor.

If you want information on the requirements of an FmHA appraisal, you may request a copy of the FmHA appraisal regulations from the County Supervisor.

Sincerely,

County Supervisor
Attachment

Attachment 1—Borrower's Request for Meeting of Creditors and Acknowledgment

I/We have been given a notice explaining that I/we are not eligible for primary loan service programs. FmHA has told me that due to my/our debt with other lenders it does not believe that I/we can develop a feasible plan. I/we request that you schedule a meeting with my undersecured creditors to assist me/us in developing a feasible plan of operation. I/we consent to FmHA releasing information concerning my/our FmHA account(s) to these creditors to assist me in developing a feasible plan.

(Date)

(Borrower's signature)

Note to county supervisor: Send attachment 1 to exhibit E to borrowers who

submitted applications before November 28, 1990.

Attachment 2—Borrower's Request for Meeting of Creditors and/or Request To Negotiate the FmHA Appraisal and Acknowledgment

I/We have been given a notice explaining that I/we are not eligible for primary loan service programs.

I/we want to:

(Check the appropriate box or boxes.)

☐ (1) Request an independent appraisal of my property including any nonessential assets.

I must return this "Response Form" within 30 days to request an independent appraisal.

I understand that I must pay for this appraisal. I understand that the FmHA County Supervisor will give me a list of appraisers.

If the independent appraisal is within five percent of the FmHA appraisal, I must select which of the two appraisals I want to be used for processing my request.

☐ (2) Request Negotiation of the Appraisal. I must return this "Response Form" within 30 days to request a negotiation of my appraisal.

I understand that I must provide FmHA with a copy of my independent appraisal within 30 days of requesting negotiation. I understand that I must pay for this appraisal and one-half of a third appraisal. I understand that FmHA will not negotiate the appraisal more than once.

☐ (3) I/We request a copy of the FmHA recent appraisal of my property.

☐ (4) I/We am paying FmHA the net recovery value of any nonessential assets that FmHA has said I/we own. I will pay this amount within 45 days.

Please recalculate the restructuring of the FmHA debt.

Note to County Supervisor: Do not include paragraph #5 if certified state mediation is available or the undersecured creditors' debts are not a substantial part of the borrower's total debt.

☐ (5) Request that you schedule a meeting with my undersecured creditors to assist me/us in trying to develop a feasible plan of operation. I/we consent to FmHA releasing information concerning my/our FmHA account(s) to these creditors to assist me in developing a feasible plan. I must return this "Response Form" within 30 days if I want a meeting.

(Date)

(Borrower's signature)

Note to County Supervisor: To be sent to borrowers who submitted applications on or after November 28, 1990.

15. Exhibit F to subpart S is revised and attachments 2 and 3 are added to read as follows:

Exhibit F—Notification of Offer To Restructure Debt

(To be used by FmHA to offer to restructure the borrower's debt, and in the case of applications submitted on or after November 28, 1990, to inform the borrower about any

nonessential assets and the opportunity to negotiate the appraisal)

(Borrower's Name and Address)

Dear (Borrower's Name):

We have determined that the Farmers Home Administration (FmHA) can approve your request for primary loan servicing programs.

Offer

Our calculations indicate that you will be able to make the necessary annual payment on your FmHA loan if your loan is restructured through the use of primary loan servicing programs. Therefore, we are offering to restructure your FmHA debt in the following fashion:

(The County Supervisor will fill in the blank by describing exactly what would be done with the borrower's account.) For example, if the borrower has a farm ownership loan, the County Supervisor will fill in the blank by saying that (\$Amount) of principal and interest on that loan would be written off, and the remainder of the loan would be reamortized for 40 years from the original date of the loan, or up until (date) at the limited resource interest rate, which is _____ percent, in exchange for the borrower signing a shared appreciation agreement, which is attached to the notice.)

The attached computer printout indicates the primary loan servicing program that will keep you on the farm and provide the greatest net recovery to the Government.

If you want FmHA to use the primary servicing program identified on the computer printout to restructure your debt, you must accept this offer in writing. Your acceptance must be received by FmHA no later than 45 days from your receipt of this letter. You may accept this offer in writing by signing and returning the attached form titled "Acceptance of Offer to Restructure my Debt."

(The following paragraphs (the nonessential assets option) will be removed if the application was submitted before November 28, 1990, or if the application was submitted on or after that date and the borrower does not have any nonessential assets.)

Nonessential Assets

FmHA has determined that you have nonessential assets that do not contribute a net income to pay essential family living expenses or maintain a sound farming operation. The net recovery value (NRV) of the nonessential assets has been added to the NRV of the FmHA collateral for the calculation on the attached printout. The NRV of the nonessential assets is \$_____. Your nonessential assets and their NRVs are as follows:

Nonessential Assets

NRVs

FmHA encourages you to sell the nonessential assets or borrow against their value. If you pay the NRV of the nonessential assets, that amount will be subtracted from your debt and FmHA will recalculate the amount of your FmHA debt. If you are going to pay FmHA the NRV of your nonessential assets, you must do so within 45 days of the date of receiving this letter. You must check the appropriate block on the response form and return it to FmHA within 45 days with your payment for the NRV of the nonessential assets of \$_____.

If you wish to dispute FmHA's decision that you own nonessential assets or disagree with the offer presented, you may request a meeting and/or an appeal.

(The following paragraphs (the negotiation option only) will be removed if the borrower has already negotiated the appraisal or the application was submitted before November 28, 1990.)

Negotiation of the Appraisal

If you object to the FmHA appraisal of your property, you may ask the FmHA to negotiate the appraisal with you by returning the "Response Form." You must ask to negotiate the FmHA appraisal within 30 days from the date you receive this notice. To do this you must provide FmHA with a copy of your current independent appraisal or you must now obtain, at your cost, an independent appraisal of your property. The appraisal and the appraiser must meet certain standards published in FmHA's regulations.

If you do not have a current appraisal and wish FmHA to assist you, check option 2 of the "Response Form" and FmHA will provide you with a list of such appraisers.

You must provide FmHA with a copy of your independent appraisal within 30 days of requesting negotiation.

If your current independent appraisal is within five percent of the FmHA appraisal, you must select which appraisal of the two you want FmHA to use in processing your request. The appraisal you select will be the final appraisal. It cannot be further negotiated or appealed. If the difference is more than five percent and you have requested a negotiated appraisal you and FmHA will choose an independent appraiser to complete a third appraisal. You must pay one-half of the cost of the third appraisal. You, the appraiser and the County Supervisor must complete and sign an appraisal agreement for this appraisal. FmHA will pay for the other half of the third appraisal.

Following the completion of the third appraisal, the average of the two appraisals that are closest in value, as determined by FmHA, shall establish the appraised value to be used. This final negotiated appraisal is not appealable. Do not select this option on the "Response Form" if you and FmHA have already negotiated your appraisal.

If you wish to dispute FmHA's appraisals but do not want to reach agreement with FmHA by negotiating the appraisal, you may also request a meeting and/or appeal of other items of the decision that you do not agree with by checking the appropriate box/boxes on the attached response form. If you believe there are mathematical or property description errors in the appraisals, you

should immediately contact the County Supervisor. If you and the County Supervisor agree, the corrections will be made and initiated by both you and the County Supervisor.

If you want information on the requirements of an FmHA appraisal, you may request a copy of the FmHA appraisal regulations from the County Supervisor.

What Happens If You Do Not Accept the Offer

If you do not accept the restructuring offer on page 1, FmHA will deny your request for primary loan servicing. You can appeal the offer now by checking the appropriate block on attachment 2, or you can wait until you receive an additional notice stating that FmHA intends to liquidate your account. The notice will explain the reasons for this action and give you the opportunity to appeal.

You may have a Federal income tax liability if FmHA restructures your FmHA indebtedness with a writedown. You should contact the Internal Revenue Service (IRS) for information on this matter.

Sincerely,
County Supervisor

Attachment 2—Acceptance of Restructuring Offer, Request To Negotiate Appraisal or Pay FmHA the NRV of Nonessential Assets

(This attachment will be used instead of attachment 1 for borrowers who submitted applications on or after November 28, 1990.)

To: County Supervisor, Farmers Home Administration
From: (Please print your name and address)

Dear County Supervisor:
I have received your offer to restructure my FmHA debt.

(Check the appropriate blocks.)

☐ (1) I/We accept FmHA's offer to restructure my debt. I/We must accept FmHA's offer within 45 days of receiving exhibit F.

☐ (2) I/We request an independent appraisal of my property including any nonessential assets. If the difference between my independent appraisal and the FmHA appraisal is not more than five percent, I understand that I must select which of the two appraisals I want to be used for reconsidering my request. In such a case, there will not be an appeal of the appraisal or any further negotiation of the appraisal.

I must return this "Response Form" within 30 days to request an independent appraisal.

I understand that I must pay for this appraisal. I understand that the FmHA County Supervisor will give me a list of appraisers.

☐ (3) I/We request a copy of the FmHA recent appraisal of my property.

☐ (4) Request Negotiation of the Appraisal.

I must return this "Response Form" within 30 days to request a negotiation of my appraisal.

I understand that I must provide FmHA with a copy of my independent appraisal within 30 days of requesting negotiation. I understand that I must pay for this appraisal plus one-half of a third appraisal. I

understand that FmHA will not negotiate the appraisal more than once.

☐ (5) Request an appeal hearing.

I/We must return this "Response Form" within 30 days to request a hearing.

I/We understand that I/we will be contacted by FmHA's National Appeals Staff to set up the appeal hearing date and to give more information.

If possible, I/we should submit a copy of my/our independent appraisal to the County Supervisor and the hearing officer prior to the appeal hearing of the appraisal.

☐ (6) I/We intend to pay FmHA the net recovery value of any nonessential assets that FmHA has said I/we own.

I/We must pay the net recovery value of the nonessential assets within 45 days of receiving exhibit F.

Please recalculate my restructuring of the FmHA debt.

Sincerely,
(Borrower's signature)

(Date)

Attachment 3—Appraisal Agreement

I. This agreement is with (insert name of appraiser), referred herewithin as the appraiser, FmHA, and (insert name of FmHA borrower requesting a negotiated appraisal) herewithin referred to as the borrower.

II. The purpose of this agreement is to set forth the terms and conditions of the appraisal which will be used in determining an negotiated appraisal of the borrower's farm property.

III. The appraiser agrees to perform an appraisal of the borrower's farm property as described below:

IV. The appraiser certifies that he has not conducted either the FmHA appraisal or the borrower's independent appraisal of this farm property.

V. The appraiser certifies that he/she is a qualified independent appraiser as approved by the FmHA County Supervisor. The appraiser also agrees that the completed appraisal will conform to subpart A of part 1809 of this chapter (FmHA Instruction 422.1 available in any FmHA office) for real estate and Form FmHA 440-21 for chattels.

VI. The cost of the appraisal will be (insert dollar cost). The cost of the appraisals will be shared equally by FmHA and the borrower, each paying one-half of the cost upon delivery of the completed appraisal to FmHA and the borrower. The completed appraisal must be delivered to FmHA and the borrower within 30 days of the date of this agreement.

(Borrower)

(County Supervisor)
(Appraiser)

Date:

16. Exhibit G to subpart S is amended by revising paragraphs II(B)(3) and VIII(D) and by adding paragraph IX(H)(3) to read as follows:

Exhibit G—Deferral, Reamortization and Reclassification of Distressed Farmer Program (FP) Loans for Softwood Timber Production (ST) Loans.

II. * * *
(B) * * *

(3) For applications received before November 28, 1990, when a loan is reamortized the accrued interest less than 90 days overdue will not be capitalized. For new applications, as defined in § 1951.906 of this subpart, the total amount of outstanding accrued interest will be added to the principal at the time of reamortization. Payments may be deferred for up to 45 years or until the timber crop produces revenue, whichever comes first, except as required in paragraph VIII(B) of this section. If income is available, payments will be required as determined in paragraph II(B)(4) of this exhibit. Repayment of such a reamortized loan shall be made not later than 46 years after the date of the reamortization unless the borrower qualifies for a further reamortization as authorized in section IX(H) of this exhibit.

VIII. * * *

(D) For applications for Primary and Preservation Loan Service Programs received before November 28, 1990, interest payments which are 90 days or more past due will be added to the principal balance to form a new principal balance upon which interest will accrue over the Softwood Timber deferral period; interest less than 90 days past due will not be capitalized and will be payable at the end of the Softwood Timber deferral period. For new applications, as defined in § 1951.906 of this subpart, the total amount of outstanding accrued interest will be added to the principal balance to form a new principal balance upon which interest will accrue over the Softwood Timber deferral period. The FMI for Form FmHA 1940-17 has examples (IV, V) which explain this procedure. The Finance Office will apply the payments made on the note in accordance with subpart A of part 1951 of this chapter.

IX. * * *
(H) * * *

(3) For applications received before November 28, 1990, the interest less than 90 days past due will not be capitalized. For new applications, the total amount of outstanding accrued interest will be capitalized. The term of the reamortized note will not exceed 50 years from the date of the initial ST note. The total years of deferred payments will not exceed 45 years, including the payments deferred in the initial note. The note should be scheduled for payment when the timber is expected to be harvested, or when income will be available to pay on the note, whichever comes first. However, partial payments must be scheduled for those years that exceed the deferral period.

Exhibit H [Amended]

17. Exhibit H to subpart S is amended by adding at the end of paragraph VII (A)(6) the words "in the case of a nondelinquent

borrower, the amount cancelled shall not exceed 33 percent of the indebtedness secured by the real estate."

18. Exhibit H to subpart S is amended by revising the heading, removing paragraph II(3), redesignating paragraphs II (4) and (5) as II (3) and (4), respectively, revising the introductory text of paragraph I, and revising paragraphs II (1) and (2) and VII (C), (G) and (H) to read as follows:

Exhibit H—Primary Loan Service and Conservation Easement Programs

I. General.

A Conservation Easement (CE) may be exchanged, when requested by a borrower (current or delinquent), for a cancellation of a portion of his/her FmHA indebtedness. The CE may be considered alone, or with the Primary Loan Servicing Programs as set forth in § 1951.909 of this subpart and the requirements of this exhibit. These easements can be established for conservation, recreational, and wildlife purposes on farm property that is wetland, wildlife habitat, upland or highly erodible land. Such land must be suitable for the purposes involved and, except in the case of wetland and wildlife habitat as defined in paragraphs (a) and (d) of this section, must have been row cropped each year of a three-year period ending on December 23, 1985. All Farmer Programs loans which are secured by real estate may be considered for a CE. Non-program loan debtors are not eligible to receive any benefits under this section. Conservation easements do not have to result in net recovery to the government at least equal to the recovery from liquidation. If a borrower who has applied for Primary Loan Servicing initially declines an easement, but the debt writedown program fails to establish a feasible plan, the borrower will be considered for a CE combined with debt writedown to determine whether these options establish a feasible plan.

II. * * *

(1) All Farmer Program loans which are secured by real estate may be considered for a CE. A real estate mortgage or deed of trust taken on a borrower's real estate as additional security for a Farmer Programs loan qualifies as real estate security.

(2) The proposed easement helps a qualified borrower to repay the loan in a timely manner.

VII. * * *

(C) *Updating the title opinion.* Title examination will be the same procedure as provided for in subpart B of part 1927 of this chapter. A preliminary title opinion will not be required. The final title opinion will cover the period following the recordation of the initial loan mortgage. Title opinion costs will be considered nonrecoverable costs and will be paid by FmHA in accordance with § 2024.753 (c) of FmHA Instruction 2024-P (Instructions and forms are available in any FmHA office).

(G) *Recording of noncash credit.* Upon approval of the easement, the County Supervisor will complete Form FmHA 1951-

47, "Farmer Program Noncash Credit for Purchase of Easement Rights," for entry into the FmHA field office terminal system. For applications received from delinquent borrowers, all of the borrower's Farmer Programs loans are eligible to be credited. The total credit to the borrower's account will not exceed the greater of the value of the land on which the easement is acquired; or the difference between the amount of the outstanding indebtedness secured by the real estate, and the value of the real estate. In the case of a non-delinquent borrower, the amount to be credited will not exceed 33 percent of the amount of the loan secured by the real estate on which the easement is obtained. In all cases, the amount credited will be applied on the FmHA loan(s) as an extra payment in order of lien priority on the security. The loan may be reamortized if needed.

(H) *Recording of the easement.* The County Supervisor will record Form FmHA 1951-39 or Form FmHA 1951-39A (or other acceptable form that has been approved by OGC) to comply with State laws. The County Supervisor then will retain a copy of the easement in the borrower's file and will provide a copy of the easement to the enforcement authority and to the borrower. Cost of recording the easement will be considered a nonrecoverable cost and will be paid by FmHA in accordance with § 2024.753 (c) of FmHA Instruction 2024-P (Instructions and forms are available in any FmHA office).

19. Exhibit I of subpart S is revised to read as follows:

Exhibit I—Guidelines For Determining Adjustments for Net Recovery Value of Collateral

This exhibit provides guidance to State Directors and County Supervisors for determination of the factors to be used in adjusting current market value.

I. State Director Responsibilities

The State Director's analysis to County Supervisors will specify costs which are determined to be consistent state-wide, and provide specific guidance on the determination of costs which are somewhat consistent within the state, but may vary on a county to county or property to property basis. All studies or surveys should be conducted so that all necessary information can be distributed at the same time.

A. Real Estate Costs

The analysis for liquidation and disposition costs should, as a minimum, address the following items and considerations:

(1) *Months Held in Inventory.* The average holding period will be the average number of months that suitable properties, which are not leased, are held in inventory. The average holding period is derived from report code 597, "Farmer Program Inventory," for the period ending June 30. However, in situations where states have no suitable inventory, or have a very limited number (generally less than 5) of suitable properties for which the holding period for those properties is not representative (i.e., one property in inventory held 75 months due to local litigation), the

average of the holding periods of surrounding states should be used. National Office guidance may be requested in such cases.

(2) *Sales Commission Rate.* A study will be conducted, at least annually, to determine the typical method for disposition of FmHA inventory farms in the state. The findings will be used to determine whether commissions should be included as resale expenses, or whether FmHA normally disposes of inventory farms without the assistance of brokers or auctioneers. However, if a County Office is covered by an exclusive listing agreement or contract for auctioneering services, commissions will always be included as resale expenses in that office. The percentage of commission will be the rate specified on the listing agreement(s) or contract(s) in effect for the County Office.

(3) *Cost Per Advertisement.* The County Supervisor will contact at least one local newspaper to obtain a cost for advertising inventory farms in accordance with subpart C of part 1955 of this chapter.

(4) *Rate of Change in Value.* Yearly percentage decrease or increase in value is the rate of change in value. To provide a fair assessment of projected trends in farm land values, each State Director will establish a farm land market advisory committee (FLMAC). The committee will consist of the FmHA State Director, the State Executive Director of the Agricultural Stabilization and Conservation Service (ASCS), the State Conservationist for the Soil Conservation Service (SCS), and an Extension Specialist from a Land Grant University (if available) or other Agriculture Extension Service employee with knowledge of the farm real estate market.

The FLMAC will meet at least each July, and will consider the following information:

- (a) The actual change in farm land values in the state during the previous year, as indicated in the most recent "Agricultural Land Values and Market Situation Outlook Report" issued by the USDA Economic Research Service.
- (b) Current conditions in the state and national agricultural economics.
- (c) Availability and cost of credit to purchase farm land.
- (d) The amount of repossessed farm land held by FmHA, the Farm Credit System, and other private sector lenders.
- (e) Any special conditions which would effect farm land values in the state.
- (f) Any studies or research conducted by the State Agricultural University or similar scholarly source.

The FLMAC should, if possible, determine anticipated value changes on a regional basis with the state, if the state has agricultural regions with discernable differences.

The committee's meetings and decisions, including the basis for those decisions, will be documented, retained in the State Office as part of the State supplement file and provided to interested parties upon request.

Prior to providing the FLMAC determinations to FmHA field offices, the State Director will contact the FmHA State Directors in surrounding states to determine if the committee's findings are fairly consistent with those of surrounding states. If there are significant differences, the State

Director may reconvene the committee to reconsider its findings.

(5) *Management charges.* In situations where state or district wide contracts for management of inventory farms are in effect, the State Director will specify those rates to be used in management cost calculations. Generally, those costs should be specified on an annual per-acre basis or annual income percentage basis. If there are no area wide contract rates for some or all counties, guidance should be given on how to calculate rates based upon local costs. Such guidance should include customary management activities and their frequency to promote a consistent approach.

B. Chattel Costs

(1) *Months held in inventory.* FmHA rarely acquires chattel property because it can be sold much more quickly and easily than real estate. Therefore, the average holding period for chattel property will be zero, unless significant acquisitions occur and the Administrator determines that chattels do have a holding period.

(2) *Sales commission rate.* A study will be conducted, at least annually, to determine typical and reasonable commission rates for sales of chattel property in the state. The results of the study will be provided as guidance to field personnel. [The County Supervisor will conduct a survey of auctioneers to determine the average commission rate for chattel sales in the area.]

(3) *Other sales cost.* These are miscellaneous cost typically incurred when selling acquired chattels. County Offices should be advised to obtain specific guidance in unusual cases.

(4) *Rate of change in value.* This is a yearly percentage decrease or increase in the value. Because FmHA rarely acquires chattel property, the average holding period for chattel property will normally be zero, unless significant acquisitions occur and the Administrator determines that chattel do have a holding period. Therefore, there will normally not be a rate of change in value of chattels.

C. Legal and Administrative Costs

(1) *Administrative liquidation cost for each loan type.* This is the FmHA administrative cost of liquidation. The FmHA Resource Management System (RMS) work standards (FmHA Instruction 2006-J, Exhibit A, available in any FmHA Office) for liquidation should be used to determine the administrative costs associated with liquidation for each loan type. The following equation will be used for each loan type: (RMS standard for loan type in minutes divided by 60) x hourly pay rate for GS-11/1-Administrative cost of liquidation for the loan type.

(2) *Real estate costs and chattel only costs.* This is the administrative liquidation cost for Government attorney time. The State Director will consult with the appropriate Regional OGC to determine the average amount of government attorney time involved in an individual involuntary liquidation of both real estate and chattels. The legal costs associated with liquidation for real estate and chattels will be arrived at separately by multiplying the attorney time, in hours, by \$75.

(3) *Property management cost.* This is the administrative cost of managing an inventory property, while it is in inventory. This cost will be deducted in those cases involving real property. The costs should also be derived from the RMS standards. It will be necessary to determine the average number of property actions per month. This figure is obtained from the RMS-7 Report, which is issued to the State Offices quarterly. The following equation is used to compute the total property management cost:

(average actions per property per month x average holding period) x (RMS standard for property management for FO loans divided by 60) x (GS-11/1 hourly pay rate) + (RMS standard for FO property sale actions divided by 60) x GS-11/1 hourly pay rate-Administrative costs for inventory period.

II. County Supervisor Responsibilities

The County Supervisor will use the state-wide costs and give careful consideration to the cost and other guidance provided by the State Director. The County Supervisor will determine certain localized liquidation costs based upon guidance in the State supplement at least annually. These figures will be documented and provided to borrowers upon request.

A. *Management Expenses.* If the County Office is not covered by state or district wide property management contracts, the management expense rates will be based upon local level contract rates.

B. *Repairs.* Approximate costs for typical essential repairs may be developed, considering the guidance in the state supplement. Repair items must be related to physical condition (i.e., roof, windows, doors, etc.) and not to functional or economic obsolescence.

C. *Advertisements.* The County Supervisor will contact at least one local newspaper to obtain a cost for advertising inventory farms in accordance with subpart C of part 1955 of this chapter.

D. *Commissions.* A survey of auctioneers will be made to determine the average commission rate for chattel sales in the area. Real estate commissions, if any, will follow the State supplement.

E. *Legal Expense.* A survey of local closing agents will be performed to determine the cost FmHA will incur for closing transactions (title opinions, recorder's fees and the like).

F. *Miscellaneous.* Miscellaneous expenses such as land surveys, which are routinely incurred should be determined by a local survey and documented.

III. Income

Income will be added to net recovery value only when it is relatively certain that the income will be realized. Lease income will not be planned unless a lease is already in effect at the time the calculations are being made, and it appears that the lease will continue after FmHA acquires title. The amount of mineral or other lease or royalty income will be based upon the historical record of such income generated by the property. Chattels will not generate income unless they have a holding period.

IV. Depreciation

The amount of depreciation anticipated for buildings and other improvements will be based upon the summation value and estimated remaining life of the improvement as reflected in the real estate appraisal. For example, a dwelling with a summation value of \$40,000 and a remaining life of 20 years will depreciate at a rate of \$2,000 per year. The depreciation calculations will be documented in the borrower's case file and provided to the borrower upon request. Chattels will not be depreciated unless they have a holding period.

20. Exhibit J-1 with Attachment 1 of subpart S is added to read as follows:

Exhibit J-1—The Debt and Loan Restructuring System (DALR\$)

(For applications filed for restructuring on or after November 28, 1990)

Farmers Home Administration (FmHA) primary loan service programs provide a large number of alternatives for restructuring an FmHA loan. The number of loans a borrower has increases the number of combinations of possible alternatives. It is difficult and virtually impossible to manually calculate all the potential combinations of servicing actions. To assure that all the various possible combinations of programs are considered, FmHA has developed the Debt and Loan Restructuring System (DALR\$) for operation on the County Office computer system. FmHA personnel will not manually perform the calculations in this exhibit. This exhibit is provided as a benefit to those who may want to perform manual calculations, or understand the procedures DALR\$ goes through.

I. What is DALR\$?

DALR\$ is a computerized decision support tool. This means that the computer assists the FmHA loan officer in calculating the various alternatives. For example, FmHA regulations specify criteria for determining the interest rate when loans are restructured. DALR\$ will select an interest rate using the criteria in the regulations. Judgment decisions are made by the FmHA loan officer in evaluating the Farm and Home Plan and other information entered into the DALR\$ system. DALR\$ performs a series of mathematical calculations based upon predetermined criteria. These same calculations and procedures would be followed when calculations are performed manually. DALR\$ also generates a printed summary of its computations for FmHA and the borrower.

II. DALR\$ Operating System

DALR\$ operates on the AT&T 3B2 computer system in FmHA field offices. It runs under the UNIX (registered tm, AT&T) computer operating system. DALR\$ also utilizes Prelude (registered tm, Venturcom) for data entry and storage functions. To operate DALR\$, UNIX System V, version 2.0.5 or later and Prelude version 2.1 are required.

FmHA developed DALR\$ to run under UNIX and Prelude because those systems have the capabilities necessary to allow for relatively rapid development, and are available in all FmHA offices. DALR\$ will not run under DOS on personal computers.

Due to lack of resources, FmHA does not plan to develop duplicate computing capabilities on personal computers. FmHA will provide copies of program diskettes and/or source code to interested parties upon request.

III. Advantages of DALR\$

The DALR\$ system provides several benefits to FmHA borrowers:

A. *Speed of calculation.* Calculations which would take hours or days are reduced to minutes. This not only speeds the processing of servicing requests, but provides the flexibility to consider several alternative plans of operation within the same time constraints.

B. *Consistency.* The use of DALR\$ assures that all calculations will be performed in the same way, and that the feasibility of all requests will be evaluated on the same calculation methods.

C. *Full consideration.* DALR\$ considers primary loan service programs and combinations of those programs for every borrower entered into the system. Thus, borrowers can be assured that they will be considered for as many of these actions as necessary to develop a feasible plan, if a feasible plan is possible.

D. *Reduction of errors.* Use of DALR\$ greatly reduces the potential for errors and inadvertent denial of assistance due to those errors. DALR\$ eliminates errors in the calculations. The only potential errors related to the calculations are input errors, which are much easier to detect and correct than calculation errors. It is important to note, however, that DALR\$ results are only as reliable as the input data.

IV. Overview

In arriving at a debt restructuring plan, DALR\$ will take advantage of all primary loan service programs to maximize the borrower's ability to repay debt and remain on the farm and avoid loss to the government.

Several combinations of primary loan service programs may be necessary to keep the borrower on the farm and avoid losses to FmHA. DALR\$ will examine each combination until a feasible plan is reached or it is determined a feasible plan is not possible with full utilization of primary service programs.

DALR\$ considers each primary servicing option order described in this Exhibit until an appropriate solution is found. Each step increases FmHA's level of assistance to the Borrower and, when applicable, includes the primary loan service programs provided by previous steps. If a feasible plan cannot be obtained by the use of primary loan servicing options, DALR\$ will calculate the net recovery value of collateral. The following is a list of features in DALR\$ for both primary loan servicing actions and net recovery value calculation.

A. DALR\$ will apply the payment, including proceeds from the sale of non-essential assets, when loans are to be paid in full on the projected effective date shown in DALR\$.

B. DALR\$ will display a warning message to the operator when the Balance Available is sufficient to pay the account current without

debt restructure. However, DALR\$ will also continue to proceed with restructure of the debt.

C. DALR\$ will reschedule/reamortize loans up to maximum terms with interest rates at the minimum of original note interest rate or regular loan program rate.

D. DALR\$ will reschedule/reamortize loans up to maximum terms with interest rates at the minimum of original note interest rate or applicable limited resource loan program rate.

E. DALR\$ will defer loans at the maximum term and minimum interest rate permitted by program regulation until a feasible plan is obtained in the first year. Loans are selected for deferral so as to minimize debt repayments in the years after the deferral period. If deferral of a loan will result in an excess cash flow margin in the first year then a partial deferral of the loan is used to eliminate the excess cash flow margin. A partial deferral has the added benefit of reducing the payment amount in the years after the deferral period.

F. DALR\$ will calculate a debt payment margin level which provides a 5 percent residual of the balance available to repay the restructured debt. If a feasible plan is not found using any combination of Primary Loan Servicing Options, then the calculations are redone using a 4 percent margin. This margin is reduced by whole percentage points until a feasible plan is found or until the margin falls below zero.

G. DALR\$ will provide Softwood Timber (ST) loan deferral, when requested by borrower, to the maximum limits permitted by program regulations. Loan deferrals will be recalculated selecting ST loans first so as to:

1. Minimize any decrease in present value caused by conversion to ST loans, and
2. If regular deferrals are still needed to facilitate a feasible plan in the first year, minimize the increase in payments in the year after the expiration of deferral period.

A ST loan deferral has the same effect on current FmHA debt repayment as a full writedown of the same amount of debt. A ST loan deferral, however, will always have a greater present value. Therefore, after a loan is selected for ST deferral it will not be considered for writedown since this will always reduce present value.

H. DALR\$ will writedown loans in the order, at the interest rates, and in combination with other primary loan service programs to maximize the ability of the borrower to remain on the farm and avoid FmHA loan losses.

1. Conservation Easements

Conservation Easement writedown (when requested by the borrower) will be considered over debt writedown whenever such FmHA Instruction 1951-S consideration will not prevent development of a debt restructuring plan which will keep the borrower on the farm.

2. Security Considerations

The FmHA County Supervisor will evaluate each loan and determine its writedown priority considering the degree of collateralization. Loans which are secured

but have no collateral value will generally be selected for writedown before loans which are at least somewhat collateralized. There are three writedown security/collateral categories.

- a. *Low*: These loans may be secured or unsecured and have no collateral value.
- b. *Medium*: These loans are secured but do not have sufficient collateral value to fully protect the Government's interest.
- c. *High*: These loans are secured and fully collateralized; the Government's interest is fully protected.

3. Methodology

a. Method 1 (See section IX B of this exhibit) will be used first to develop an acceptable restructuring plan which will keep the borrower on the farm. If a restructuring plan is not found which will keep the borrower on the farm then Method 2 (See section IX C of this exhibit for a full description) will be used to develop a restructuring plan.

b. For both Method 1 and Method 2 loan terms will be the maximum permitted by program regulations. Also, writedown amounts will be calculated so that the "Balance Available" to repay debt is equal to or as close as possible to the "Debt Repayment" plus a 5 percent cash flow margin.

c. Loans selected for regular deferral will remain deferred, but will be fully or partially written down if needed to obtain positive 5 percent cash flow margin. Loans converted to ST loans (if requested) will remain ST loans and will not be written down because writing down ST loans decreases present value.

d. If a restructuring plan is not found to keep the borrower on the farm, the borrower, FmHA County Supervisor, and other Lenders may reevaluate/rework the borrower's farm plan to increase income, reduce other debt, sell assets, and/or improve security on FmHA debt. DALRS will use the new/revised information which will include consideration or reconsideration of ST and/or conservation easement offers provided by the borrower and the FmHA County Supervisor. This will help to assure that the restructuring of existing FmHA debt will maximize the potential for the borrower to repay debt and remain on the farm and avoid FmHA loan losses.

e. DALRS has the capability to accommodate the \$300,000 statutory ceiling for debt writedown and debt writeoff.

f. DALRS will calculate the Net Recovery Value for secured assets and other non-essential assets. In the Net Recovery Value calculation process, DALRS will add or subtract the applicable liquidation costs to the current market value of the security.

V. Information Needed for the Calculation Process

The following information will be determined prior to running DALRS.

A. Determine Balance Available

Determine balance of funds available for debt repayment in the next planning year. This is the "Balance Available in Year 1." This figure should be obtained from Form FmHA 431-2, "Farm and Home Plan." If loan deferrals and/or debt writedown is

anticipated or is needed, also determine the Balance Available for debt repayment in the year after the end of the specified deferral period.

B. Determine Total Debt Repayment

Determine total debt repayment in the next planning year. This is the "Debt Repayment in year 1." The total debt repayment should also be obtained from Form FmHA 431-2, "Farm and Home Plan." If loan deferrals and/or debt writedown is anticipated or needed, also determine the debt repayment in the year after the end of the specified deferral period. Included in this amount are:

1. *New FmHA long term loans*. New loans planned may affect repayment in the first planning year and/or the year after the end of the specified deferral period, depending on when the loan will be made and the repayment term. The equal annual payments on these new loans are included in the debt repayment calculations. Regular program interest rates (not limited resource rates) are input for all new loans. If it is determined that it is not possible to develop a feasible plan at regular program interest rates, DALRS will use applicable limited resource rates in the final calculation process.

2. *FmHA Loan for annual operating expenses*. The amount of FmHA loan for annual operating expenses is the amount of annual operating expense loan principal which is due in the applicable planning year. The estimated average number of months the annual operating loan will be outstanding is also input into DALRS.

DALRS will calculate the interest accrual on an annual production loan by multiplying the principal to be paid in the applicable planning year by the regular loan program interest rate (monthly decimal equivalent) and then by the average number of months the principal will be outstanding. See attachment 1, Formulas, for details.

Repayment of FmHA loans for annual operating expenses are first based on regular loan program interest rates. If it is determined that it is impossible to develop a feasible plan using regular loan program interest rates, DALRS will change the interest rate to limited resource rates, if applicable.

If some of the principal will be carried over to future years then that portion is either:

- a. Included with the new loan payments computed using the amortization factor over the applicable loan term at regular loan program interest rates, or
- b. If the amount to be carried over is already included in an existing loan, it is rescheduled with the existing loan at the applicable term permitted by program regulation.

3. *Non-FmHA repayment and taxes*. It is necessary to include the total non-FmHA debt payments (principal and interest) and taxes (income and social security) to be repaid annually. If future loans are planned which will effect the first year or the year after the deferral period, the annual debt repayment for these future non-FmHA loans should also be included. This information should be obtained from Form FmHA 431-2, "Farm and Home Plan."

C. Determination and Calculation of Unpaid Balance on Existing Loans

- 1. Obtain status information on each loan.

The status information date (accrual date) must be a date after the last payment or other transaction on the loan.

- a. Principal balance.
 - b. Accrued interest balance including any deferred interest, if applicable.
2. For each loan DALRS will compute the interest accrual to the proposed effective date for servicing actions.

Interest Accrual = $P \times \text{Iex} \times \text{NDAYS}$.

Where

a. "P" is the outstanding principal balance on the date on which loan status information was obtained.

b. "Iex" is the daily interest accrual (decimal equivalent) based on the existing interest rate for the loan. Daily interest accrual is equal to the existing annual interest rate divided by 365.

c. "NDAYS" is the number of days between the effective date and the status information date. If February 29 occurs between these two days it is not added to the number of days.

VI. Iterative Calculation Process

Once the Basic Borrower and loan information is determined and input into DALRS, the calculation process can begin. During the calculation process DALRS will step through a computational procedure in which replication of the cycle will continue in an attempt to find a feasible plan.

A. Loan Payments To Be Made on the Effective Date

DALRS will apply loan payments which are planned to be made on the effective date of the servicing actions. DALRS only considers full pay off of loans. If a partial payment is anticipated, this amount must be processed prior to the running of DALRS.

If the balance available is greater than or equal to the 105 percent of debt repayment in year 1 and there are no delinquent loans, then no further servicing action in DALRS are required.

B. Reschedule/Reamortize Delinquent Loans at Regular Rates

1. *Criteria*. DALRS will attempt to reschedule/reamortize loans as needed to eliminate any delinquency. All delinquent loans will be rescheduled/reamortized.

The interest rate will be the minimum of:

- a. the original note interest rate, or
- b. the regular loan program interest rate which will be in effect on the date the servicing actions are calculated.

2. *The Process*. a. Identify delinquent loans.

b. Recompute debt repayment in year 1.

c. Loans will be rescheduled/reamortized over the maximum term permitted by program regulation, unless such maximum term will result in an excess cash flow margin above 5 percent. If such an excess cash flow margin exists, the following procedure will be used to obtain the optimum term for debt repayment.

(1) Loans will be selected in the order of the lowest security first.

(2) For loans with equal security, the secondary selection will be based on the loan with the lowest amortization factor.

(3) The final criteria will be the loan with the lowest present value.

(4) Reschedule/reamortize the loans at the new terms.

(5) Recompute the excess cash flow margin.

(6) Repeat steps (1) through (5) until there is no reduction in term whose increase in payments is less than or equal to the excess cash flow margin.

C. Reschedule/Reamortize Non-Delinquent Loans at Regular Rates

1. *Criteria.* If rescheduling/reamortization of the delinquent loans at regular rates and maximum terms fails to produce a feasible plan, DALRS will attempt to reschedule/reamortize nondelinquent loans at regular rates.

The interest rate will be the minimum of:

a. the original note interest rate, or

b. the regular loan program interest rate which will be in effect on the date the servicing actions are calculated.

2. *Loan Selection.* a. In selecting the loans for rescheduling/reamortization the loans will be ordered so that the loan having the greatest reduction in interest rate will be rescheduled/reamortized first.

b. If the change in interest rate is equal for two or more loans, then this subgroup will be ordered so that the loans having the smallest new principal balance will be rescheduled/reamortized first.

c. If the repayment on any rescheduled/reamortized loan exceeds the current repayment amount for that loan, then that loan will not be rescheduled/reamortized.

3. *The Process.* a. After each rescheduling/reamortization recompute debt repayment in year 1.

b. Loans will be rescheduled/reamortized over the maximum term permitted by program regulation, unless such maximum term will result in an excess cash flow margin above 5 percent. If such an excess cash flow margin exists, loan term(s) will be reduced to minimize cash flow margin according to the process described above in section VI B 2 c of this exhibit.

D. Rescheduling/Reamortizing Non-Delinquent and Delinquent Loans at Limited Resource Rates

1. *Criteria.* If rescheduling/reamortization of all loans are regular rates and maximum terms fails to provide a feasible plan, DALRS will attempt to reschedule delinquent loans at limited resource rates, if applicable.

New loans will have the maximum term permitted by the program regulation, using the limited resource interest rates (when applicable) which will be effective on the date of the servicing actions.

Interest accrual on the FmHA loan(s) for annual operating expenses will be at the limited resource rate (when applicable). The interest rate will be the minimum of:

a. The original note interest rate, or

b. The limited resource interest rate which will be in effect on the date the servicing actions are calculated.

2. *Loan Selection.* Refer to section VI C 2 of this exhibit for loan selection criteria.

3. *The Process.* Refer to the process outlined in section VI B 2 c of this exhibit. Loan normally will be rescheduled/reamortized at the maximum terms when limited resource rates are given.

VII. Deferrals

A. Deferral Period

1. Deferrals will only be beneficial if the cashflow margin will improve or debt service repayment decreases after the deferral period. This improvement must begin no later than six years after the current planning year, since the maximum deferral period is five years.

2. To determine the appropriate deferral period the County Supervisor and borrower will review the farm operation over the next five years. Loans should be deferred to the year when the improvement from the first planning year is the greatest and the improvement in the following years are at least as good.

3. It is not necessary that deferrals provide a positive cash flow margin after the deferral period because it is still possible to obtain a positive cashflow margin with a combination of deferrals, debt writedown and the other primary loan service programs. However, to maximize the potential for the borrower to remain on the farm and avoid losses on FmHA loans, a new farm plan must be prepared by the FmHA County Supervisor and borrower for the year after the end of the selected deferral period.

B. Deferrals

1. Criteria.

a. Loans which have been rescheduled/reamortized previously in DALRS will be rescheduled/reamortized at the same interest and term.

b. Other loans which have not been previously rescheduled/reamortized in DALRS will be rescheduled/reamortized as follows:

(1) Loans will be rescheduled/reamortized over the maximum term permitted by program regulation.

(2) The interest rate will be the minimum of:

(A) The original note interest rate, or

(B) The loan program interest rate (limited resource, if applicable) in effect on the date of the servicing action calculations.

2. *Loan selection.* This selection process will assure that after a positive cash flow margin is achieved in the 1st year, the cash flow margin in the year after the deferral period will be the greatest.

a. Calculate the payment after the deferral period for each loan eligible for deferral. This is only a side calculation to determine the best order of selection. A deferral will decrease the payments in the 1st planning year and increase the payments in the year after the deferral expires.

b. For each loan compute the ratio of the increase in "after deferral period" payment to the decrease in 1st year payment.

c. The loan with the smallest ratio is deferred first and so on until the balance available is greater than or equal to debt repayment in year 1.

3. *The Process.* a. Reschedule/reamortize unequal payment schedule loans and other loans not previously rescheduled except ST loans which have not been rescheduled/reamortized in previous steps. Such rescheduling may result in a temporary decrease in cash flow margin.

b. Taking one loan at a time, defer the selected loan, recompute the debt repayment

in year 1. Also compute the debt repayment in the year after the end of the deferral period.

c. If a five percent margin exists between the balance available and the debt repayment in year 1 and the five percent margin exists in the year after the end of the deferral period, then no further servicing actions are required.

d. If the margin between balance available and the debt repayment in year 1 is greater than five percent, then this implies that the last loan deferred did not require a full deferral.

(1) For the last loan selected, compute amount of partial deferral necessary to achieve the required margin between balance available and debt repayment in year 1.

(2) Recompute payments for this loan during the deferral period and the years after the expiration of the deferral period.

(3) If in the year after the end of the deferral period, a five percent margin exists between the balance available and the debt repayment, then no further servicing actions are required.

4. *Partial deferrals.* a. Whenever deferral of a loan results in an excess cash flow margin in the first year, a partial deferral of that loan will result in a higher present value and will also decrease future payments on that loan. A partial deferral is created by splitting an existing loan into two distinct parts (nondeferred and deferred). Within the deferral/writedown module, the two parts are seen as two separate loans. When partial loans are created a new loan entry is added to the deferral/write down module data table. The loan that is split to make the partially deferred loan is split so that the principal and interest are separated by the same amount (percent wise), i.e., a new partially deferred loan may consist of 25% of the original loan principal, 25% of the original interest.

b. Examples:

Case 1: Partial Deferral Without Writedown

Situation: A full deferral is more than is needed to achieve a positive cash flow margin in year 1. A full payment on the loan will produce a negative cash flow margin in year 1.

The Process

(1) Determine amount of deferral necessary to achieve a feasible plan in the first year.

"d" is the fraction of the loan which must be deferred. This fraction is applied to the principal (P).

"r" is the amount of cash flow margin in the first year with a full deferral. "R" is the debt repayment on the loan in the first year without deferral.

$$d = 1 - (r/R)$$

(2) Calculate portion of debt to be deferred and portion of non-deferred debt to meet cash flow margin criteria in the first year.

Non-Deferred portion

$$P_1 = (1 - d) \times P = (r/R) \times P$$

Deferred Portion

$$P_2 = P - P_1$$

Case 2: Partial Deferral With Writedown

Writedown is required for a feasible plan. In this situation the writedown and partial deferral must yield a payment which exactly meets the borrower's ability to repay debt. This will maximize the "Present Value" and the borrower's ability to remain on the farm.

Situation: The loan is partially deferred to achieve a feasible plan in the first year. The payments in the year after the end of the deferral period exceed the borrower's ability to pay even with a partial deferral.

Writedown is necessary to achieve a feasible plan. The loan which is partially deferred has been selected as the next loan to writedown based upon writedown selection criteria.

Writedown Sequence: (A) The principal (on the deferred portion of the loan) is then written down until a feasible plan is achieved or the principal is fully written down.

(B) At this point the deferred portion of the loan has been fully written down, but a feasible plan has not yet been found. The subject loan is now a nondeferred loan with reduced principal and reduced interest. This new loan must now compete for selection for writedown with all remaining loans based on the writedown selection criteria.

VIII. Softwood Timber**A. Criteria**

1. Loan terms will be the maximum permitted by program regulation.
2. The interest rate will be the minimum of:
 - a. the original note interest rate, or
 - b. the Softwood Timber program interest rate which will be in effect on the date of the servicing action calculations.
3. The rescheduled/reamortized principal amount of Softwood Timber loans will not exceed the maximum amount permitted by program regulation or the amount needed to develop a feasible plan, whichever is less.

B. Loan Selection

Loans will be selected for the Softwood Timber loan program to maximize the present value after conversion to Softwood Timber, thus avoiding loan losses.

1. Cancel all previously calculated deferrals.
2. For each loan compute the present value before and after conversion to a Softwood Timber loan. Then compute the decrease in present value (note: for loans in which the present value increases this will be a negative number).
3. For each loan compute the ratio of the decrease in present value to the decrease in first year repayment after conversion to a Softwood Timber loan.
4. Select the loan with the smallest (or most negative) ratio first.
5. If loans have equal ratios, select the loan having the least security among these loans first. Softwood Timber loans will have new security instruments. This will improve the FmHA security and could increase present value if writedown is required for other loans.

C. The Process

1. Starting with the first loan in the list of loans ordered to minimize decrease in present value, convert the loan to Softwood Timber

2. Continue this process until the maximum limit for Softwood Timber conversion is reached or a feasible plan is possible in the first year.

3. If a loan is only partially converted then create a new loan identity for the partially converted loan. The portion not converted retains the same interest rate and term prior to the conversion to Softwood Timber.

4. If fully utilizing Softwood Timber loan conversion authorities do not result in a feasible plan in the first year rework the loan deferral calculation described in section IV of this exhibit (if applicable). Do not include the loans selected for Softwood Timber loans in the reworking of the deferral calculations.

5. If conversion to a Softwood Timber loan will permit a feasible plan to be developed (with or without deferrals) no further servicing actions are required.

IX. Writedown

DALRS will attempt to find a feasible plan with debt writedown when all primary loan servicing options fail. Writedown of loans will proceed with Conservation Easement writedown (Method 1 below) first. If Conservation easement writedown does not provide a feasible plan, then regular debt writedown (Method 2 below) will be attempted.

A. Status

Debt repayments are at their absolute minimum, a feasible plan is still not possible in the first year and/or the year after the end of the deferral period (if applicable).

1. At this point consideration of primary loan service programs has had the following result:
 - a. If the borrower plans to make payments prior to the servicing actions, these payments have been applied to loans to reduce indebtedness.
 - b. All delinquent loans have been rescheduled/reamortized.
 - c. All existing FmHA loans have been considered for rescheduling/reamortization.
 - d. Deferrals have been computed for borrowers when the cash flow margin in the year after the deferral period was higher than the cash flow margin in the first year.
 - e. Loans have been converted to Softwood Timber loans (when requested by the Borrower) to the maximum extent permitted by program regulations.

(1) FmHA loans for annual operating expenses and all proposed new loans have been computed at limited resource rates (when applicable).

(2) All loans are at the lowest interest rate and maximum term permitted by program regulations.

(3) All loans are at the lowest interest rate and maximum term permitted by program regulations.

B. Method 1

Provide Conservation Easement writedown on eligible loans, when requested by the borrower, to the maximum limits permitted by program regulations. Conservation Easements will be the first writedown considered in this method. If a feasible plan is not obtained using conservation easements, then the remaining loans will be written down using debt writedown authority.

1. **Criteria.** a. Only loans secured by real estate are eligible for conservation easement writedown.

b. Interest rates, loan terms, loans selected for deferral (if applicable) do not change from the status described in Section IX A of this exhibit. That is, debt repayment is at the absolute minimum.

c. Loans converted to Softwood Timber loans will not be written down.

2. **Loan Selection.** Loans will be selected in the following order for full or partial writedown as necessary:

a. Place all loans eligible for conservation easements in a single group. Of these loans, order them for selection as follows:

- (1) Least collateralized loans first.
- (2) For loans with equivalent collateralization, loans with the largest "Amortization Factor" first. (See Amortization Factors in Attachment 1 to this exhibit.)

b. If a feasible plan is not obtained using conservation easements or conservation easement writedown had not been requested, order the remaining loans as follows:

- (1) Unsecured and/or least collateralized loans first.
- (2) For loans with equivalent security, loans with the largest "Amortization Factor" first. (See Amortization Factors in attachment to this exhibit.)

3. **The Process.** Each time a new loan is selected for writedown, deferrals (if applicable) must be recalculated as described in section VII of this exhibit.

a. **Conservation Easement writedown.** (1) Starting with the first loan selected for conservation easement writedown, determine whether a full writedown will permit a feasible plan in the applicable year. The applicable year is the first planning year if deferrals have not been calculated. If deferrals have been calculated, it is the year after the end of the deferral period.

(2) If a full conservation easement writedown will achieve positive cash flow, compute the amount of conservation easement writedown so that a five percent margin exists between the balance available and debt repayment. Reschedule/reamortize the loan for the new principal amount. No further servicing actions are required.

(3) If a full conservation easement writedown does not achieve a positive cash flow margin in the applicable year, recompute the debt repayment in the first planning year and the debt repayment in the year after the end of the deferral period (if applicable). Deferrals will have to be recalculated using the methods described in Section VII of this part.

(4) Continue selecting loans for conservation easement writedown and repeat this process until an acceptable cash flow margin is obtained in the applicable year or the maximum conservation easement writedown permitted by program regulation is obtained.

b. **Debt writedown.** (1) Conservation easement writedown (if applicable) did not attain a positive cash flow margin in the applicable planning year. With the remaining loans, reprioritize their selection without regard to eligibility for conservation easements using the criteria described in section IX B 2 of this exhibit.

(2) Using debt writedown authority write down each of these loans until a positive cash flow margin is obtained in the applicable year. Compute the amount of writedown for that loan so that a five percent margin exist between the balance available and the debt repayment.

(3) If the present value of the future payment stream on remaining debt plus the value of conservation easements exchanged for debt writedown equals or exceeds the net recovery value of the collateral for FmHA loans, then no further servicing actions are required.

C. Method 2

Use this method only if Method 1 does not find a debt restructuring plan which will allow FmHA to continue with the borrower.

1. *Criteria.* a. Loan terms are the maximum permitted by program regulation.

b. All other loans (except Softwood Timber loans), including the loan selected for writedown will be at the minimum of the original note interest rate or the limited resource interest rate (if applicable).

2. *Loan selection.* Loans will be selected in the following order for full or partial writedown as required.

a. Unsecured and/or least collateralized loans first.

b. For loans with equivalent security, loans with the smallest present value factor first. (See Present Value Factor in attachment 1 of this exhibit.) Note the Present Value Factor is independent of loan interest rate.

c. For loans with equal present value factor, loans with highest interest rate first.

3. *The process.* Each time a new loan is selected for writedown all loans whose interest rates change according to the criteria in section IX C 1 b of this exhibit will be rescheduled/reamortized using the new interest rate. Deferrals must also be recalculated as described in section VII of this part.

a. Starting with the first loan selected for debt writedown, determine whether a full writedown will result in the appropriate cashflow margin in the applicable year. The applicable year is the first planning year if deferrals have not been used. If deferrals have been used, it is the year after the deferral period.

b. If a full debt writedown results in a positive cash flow compute the amount of writedown so that a five percent margin exists between the balance available and debt repayment. Reschedule/reamortize the loan for the new principal amount and test present value with net recovery value.

c. If the amount of debt writedown calculated in Method 2 exceeds \$300,000 in order to obtain a positive cash flow, no other calculations will be computed. The criteria and calculations explained in section X, "Net Recovery Value," will be used.

X. Net Recovery Value

DALRS computes the net recovery value of collateral to obtain a value to use for the net recovery value test referred to in section IX 6 3 b of this exhibit, as required in § 1951.909 (f) of this subpart. See exhibit I, "Guidelines for Determining Adjustments for Net Recovery Value of Collateral," for guidance in determining the value of specific items in the

net recovery value calculations outlined below.

Net recovery value is computed for all FmHA Farmer Program loan security and other non-essential assets. If FmHA's lien position or the amount of prior liens vary from item to item, separate net recovery values will be computed for each item which has a different lien structure. Example: FmHA has a first lien on a borrower's equipment, except for two tractors. One tractor was financed by non-FmHA credit, and FmHA has a junior lien subject to the purchase money financing. In the case of the second tractor, FmHA subordinated its lien to another lender to finance repairs, thus, FmHA has a junior lien subject to the amount subordinated. In this example there would be three net recovery calculations, one for each tractor and one for the remaining equipment. The sum of the three calculations would be the net recovery value. The same logic applies to real estate security. Thus, the sum of all individual calculations will be the total net recovery value.

A. The general formula for net recovery value is as follows:

market value of security
minus prior liens
minus property taxes while in inventory
minus depreciation on property
minus management charges
minus repairs necessary for resale
minus legal and administrative fees
minus sales costs
minus advertising cost
plus/minus increase/decrease in value while in inventory
minus interest cost while in inventory
minus miscellaneous expenses, if any
plus anticipated income while in inventory
equals net recovery value for security property
total of net recovery value for individual property items—net recovery value of collateral

The above formula is modified for non-essential assets and unaccounted for security.

B. The individual items in the net recovery value formula are computed as follows:

1. Market value of security—the market value of the security based upon a current appraisal.

2. Prior liens—the total of all liens preceding FmHA's security interest, including past due taxes and assessments and subordinations.

3. Property taxes and assessments while in inventory—(annual tax and assessments due divided by 12) × average holding period in months.

4. Depreciation on property—Annual amount of depreciation determined by the County Supervisor, divided by 12 × average holding period in months.

5. Management charges—based upon methods of management used, (acres under management × annual rate per acre) divided by 12 × average holding period in months, or (net income on a monthly basis × percentage fee charged) × average holding period in months, or the anticipated monthly management and maintenance expense × average holding period in months, or the total of the appropriate combination of these.

6. Repairs—as determined necessary by County Supervisor.

7. Legal fees—determined with guidance from the State Director.

8. Sales costs—commission rate × market value of security.

9. Advertising—cost of three-week advertisement 1 time × (average holding period in months divided by 6, rounded to the nearest whole number).

10. Value increase/decrease—annual percentage divided by 12 × average holding period in months × market value.

11. Interest cost during inventory period—(interest rate on 90-day T-Bills × current market value) divided by 12 × average holding period, in months.

12. Average holding period for inventory, in months—determined by the State Director in accordance with FmHA Instructions.

13. Miscellaneous—any unusual or other expenses associated with acquiring, holding, or selling the property which are not covered by itemized expense items, such as hazardous waste cleanup and surveys.

14. Income—income received every month × average holding period in months + (total of non-monthly income received for the year divided by 12) × average holding period in months.

XI. Summary

At this point, DALRS has finished its calculations. DALRS will consider service programs to the point where a feasible plan has been achieved, or all farmer program loans have been written down completely. DALRS will provide a report of the results of the calculations performed, including the present value test.

If DALRS does not find a solution that will provide a feasible plan, FmHA will proceed with the other actions authorized in this subpart, including mediation, offer the opportunity to purchase collateral for net recovery value, and consideration for Preservation Service Programs.

Attachment 1—Formulas Used in DALRS Calculations

(For Applications filed for restructuring on or after November 28, 1990)

I. Loan Amortization Factors

Loan amortization factors are calculated using the following equations:

A. Non-deferred Loan

$$A = [(i(1+i)^n)/((1+i)^n - 1)]$$

A—amortization factor
i—interest rate
n—term

B. Deferred Loan

$$A = [((i(1+i)^n)/((1+i)^n - 1)) + ((i \times t)/(1+i)^t)]$$

A—amortization factor
i—interest rate
n—term
t—deferral period

C. Deferred Interest A = 1/(n - t)

A—amortization factor
n—term
t—deferral period

II. Loan Payment Calculations

Loan payments are calculated using the amortization factors rounded to five places. The equations used to calculate the loan payments are:

$$P_1 = (p + c)(a_1)$$

P_1 —payment
 p —loan principal
 c —interest

a_1 —amortization factor

Note— P_1 (payment rounded up to the next dollar if it is not an even dollar payment.

$$P_2 = (n)(a_2)$$

P_2 —payment on the deferred interest
 n —deferred interest
 a_2 —amortization factor for the deferred interest portion

Note— P_2 (payment on the deferred loan portion) is rounded up to the next dollar if it is not an even dollar payment.

$$P_3 = P_1 + P_2$$

P_3 —final loan payment
 P_1 —payment on the loan portion
 P_2 —payment on the deferred interest portion

III. Present Value Calculations

The net present value factors for each loan are calculated using the following equations:

A. Non-Deferred Loan

$$P = [(1+i)^n - 1] / [(1+i)^n]$$

P —net present value factor
 i —discount rate
 n —term

B. Deferred Loan

$$P = [(((1+i)^n - 1) / ((1+i)^n - 1)) / (1+i)^t]$$

P —net present value factor
 i —discount rate
 n —term
 t —deferral period

The loan net present is calculated using the following equation:

$$NPV = (P)(p)$$

NPV —loan net present value
 P —loan net present value factor
 p —loan payment

IV. Calculation for Up to 105% of Debt Service Margin**Explanation of Terms:**

Original Balance Available is the Balance available established by the Loan Officer.

Debt Service Margin is set by the System initially at 1.05 and reduced incrementally by .01 to 1.00.

Following are the calculation and processing logic.

Debt Service Margin = 1.05

While the Debt Service Margin > 1.00 Do The Following

Balance Available = Original Balance Available/Debt Service Margin

Deferral Balance Available = Original Deferral Balance Available/Debt Service Margin

Process all debt restructuring calculation within the While Loop, i.e.

Reschedule/Reamortize Loans

Deferral of Payments

Write-down the Principal of the Loan, No

Deferral of Payments

Write-down the Principal of the Loan, with Deferral of Payments

If a Feasible Plan has not been found or Debt Service Margin < 1.00 Then:

Debt Service Margin = Debt Service Margin - .01

Loop back up to the "While" loop

End of While Do Loop

(Break out of the "While" loop and complete processing of the DALRS SYSTEM)

V. Calculation and Logic For \$300,000 Debt Writedown and Debt Writeoff Limitation**Explanation of Terms:**

Present Value of the Restructured Principal is the value of the debt payments made over the life of the loan in today's dollars.

Principal After Restructuring is the total debt after any outstanding interest is included and any writedown amount is deducted.

Writedown Amount is the amount the principal of the FmHA debt was reduced to yield a feasible plan.

Debt Service Margin = Balance Available / Total Debt Payments

Net Recovery Value of the Assets = Dollar Value realized by the liquidation of Assets

Writeoff = FmHA Debt Before Attempting Restructuring (i.e. principal and interest before servicing) - Net Recovery Value of the Assets

Basic Code Logic:

Following are the calculation and processing logic in the program.

If 1st year cash available is less than or equal to 0 and Debt Service Margin is equal to 1.00—

Then

If Writeoff is greater than \$300,000

Then

Borrower is not eligible for Net Recovery Buyout

Else

Offer Net Recovery Buyout

Else

If Writedown Amount < \$300,000

Then

If Present Value of the Restructured Principal > Net Recovery Value of the Assets

Then

A Feasible Plan has been found to restructure the farmer's debt

Else

If Debt Service Margin is equal to 1.00

Then

If Writeoff < \$300,000

Then

Offer Net Recovery Buyout

End Processing of Debt Restructuring

Else

The Borrower is not eligible for debt forgiveness

End Processing of Debt Restructuring

Else

Reduce Debt Service Margin by .01

Retry Debt Restructuring at the lower Debt Service Margin

VI. Calculation of Average Number of Months Outstanding for an FmHA Annual Operating Loan

This is the average number of months an FmHA loan for annual operating expenses

will be outstanding. It may be estimated or calculated from the projected advance and payment schedule for the loan.

For example, loan(s) for annual operating expenses are estimated to be \$15,000 and the projected advance and repayment schedule is planned as follows:

Principal balance outstanding	Number of months
15,000	3
8,000	2
6,000	4

$$\text{Average Months} = (3 \times 15,000) + (2 \times 8,000) + (4 \times 6,000)$$

15,000 (total loans for annual operating expense)

$$\text{Average Months} = (45,000 + 16,000 + 24,000) / 15,000$$

$$\text{Average Months Outstanding} = 85,000 / 15,000$$

Average Months Outstanding = 5.7 months (Round to nearest tenth of month)

21. Exhibit L of subpart S is revised to read as follows:

Exhibit L—Homestead Protection Program Agreement

This agreement is entered into this _____ day of _____, 19____, by and between the Farmers Home Administration (FmHA) of the United States Department of Agriculture and _____ ("Borrower").

Concurrently, with the execution of the pre-acquisition Homestead Protection Program Agreement, the borrower will deliver a completed Form FmHA 1955-1 to FmHA. The Homestead Protection Program Agreement is subject to the provisions of 7 CFR part 1955, subpart A. If FmHA acquires title to the Homestead Protection property by foreclosure during the processing of a pre-acquisition Homestead Protection Agreement, processing of the agreement will be terminated and the owner will be given Homestead Protection rights pursuant to § 1951.911(b) (2)(iii) of 7 CFR part 1951, subpart S.

A. Borrower has received a loan or loans from FmHA secured by real property which includes the Borrower's dwelling, and adjoining land that is used to maintain the Borrower and the Borrower's family (the Homestead Protection property). In some cases the FmHA loan(s) may also have been included one or more outbuildings that are useful to the Borrower and the Borrower's family and in such cases these outbuildings are included in the definition of Homestead Protection property.

B. Borrower's FmHA loan is in default which could result in the loss of the borrower's Homestead Protection property.

C. Borrower wants to continue to occupy the Homestead Protection property after FmHA acquires title to it.

D. FmHA has already determined that Borrower has satisfied the requirements for its Homestead Protection Program.

E. FmHA agrees to permit Borrower to retain occupancy of the Homestead Protection property on the following terms and conditions:

1. Subject to the terms and conditions set forth below FmHA agrees to lease the Homestead Protection property, as more particularly described in Attachment 1 attached hereto, to Borrower on the terms and conditions set forth in the lease attached hereto as Attachment 2 (the "lease"). Borrower agrees to enter into the lease of the Homestead Protection property.

2. FmHA's obligation to enter into the lease of the Homestead Protection property is subject to the occurrence of the following conditions:

a. FmHA acquires fee title to the Homestead Protection property in connection with the liquidation of the farm property of which the Homestead Protection property is a portion.

b. All State and local governmental laws, ordinances and regulations concerning the creation of the Homestead Protection property as a separate legal parcel which can be leased and sold have been satisfied.

3. The term of the lease will begin on the date the later of the conditions set forth in paragraph 2 is satisfied and such date will be inserted into the lease.

4. The term of the lease will be _____ years. This term will be inserted in the lease.

5. The rent to be charged Borrower during the term of the lease will be determined by FmHA as of the commencement date of the lease and will be in an amount substantially equivalent to rents charged for similar residential properties in the area. This amount will be determined prior to execution of this agreement. The borrower will be notified by letter of the amount of the rent and the amount of the rent will be inserted in the lease form, Form FmHA 1955-20. If the Borrower disagrees with the rent determined by the County Supervisor, the borrower can appeal this determination pursuant to 7 CFR part 1900, subpart B.

6. Borrower agrees to cooperate with FmHA in applying for and securing whatever local governmental approvals are necessary in order for the Homestead Protection property to be a separate legal parcel. FmHA will bear the cost and expense of obtaining such approvals.

7. If the term of the lease has not started on or before 2 years from the date of the agreement, the agreement shall end and be of no further force or effect.

Farmers Home Administration

By: _____

Borrower: _____

Attachment 1, Legal Description of the Property.

Attachment 2, Lease Form, Form FmHA 1955-20.

22. Exhibit N of subpart S is revised to read as follows:

Exhibit N—Leaseback/Buyback Agreement

This agreement is entered into this _____ day of _____, 19____, by and between the Farmers Home Administration ("FmHA") of this United States Department of Agriculture and _____ ("Lessee").

Concurrently with execution of the agreement the borrower must deliver a completed Form FmHA 1955-1 to FmHA. This

agreement is subject to the provisions of 7 CFR part 1955, subpart A. If FmHA acquires title to the leaseback/buyback during the processing of a pre-acquisition Leaseback/Buyback Agreement, processing of the agreement will be terminated and the owner will be given leaseback/buyback rights pursuant to § 1951.911(a)(1)(ii) of 7 CFR part 1951, subpart S.

A. Lessee is eligible for the FmHA leaseback program under 7 CFR part 1951, subpart S, for the real property described on the enclosed attachment 2 (the "leaseback property").

B. FmHA has not yet acquired title to the leaseback property but agrees to lease it to Lessee on the following terms and conditions when FmHA acquires clear title to it:

1. Subject to the terms and conditions set forth below, FmHA agrees to lease the leaseback property to Lessee on the terms and conditions set forth in the lease, Form FmHA 1955-20. Borrower agrees to enter into the lease of the leaseback property.

2. FmHA's obligation to enter into the lease of the leaseback property is subject to the occurrence of the following conditions.

a. FmHA acquires clear title to the leaseback property in connection with the liquidation of the owner's interest in that property.

b. If someone other than the Lessee is eligible for and has or may exercise Homestead Protection rights under 7 CFR part 1951, subpart S, the leaseback property will be reduced by the Homestead Protection property. FmHA's obligation to lease the remaining leaseback property is contingent on FmHA's determination that all State and local laws, ordinances and regulations concerning the creation of the Homestead Protection property as a separate legal parcel which can be leased have been satisfied.

3. The term of the lease will begin on the date the later of the conditions set forth in paragraph 2 is satisfied and such date will be inserted into the lease.

4. The term of the lease will be _____ years. This term will be inserted in the lease.

5. The rent will be an amount equal to that for which similar properties in the area are being leased. This amount will be determined prior to the execution of this agreement and the agreed upon rent entered in the lease form, Form FmHA 1955-20. If the Lessee disagrees with the rents determined by the County Supervisor, the Lessee can appeal this determination pursuant to 7 CFR part 1900, subpart B.

6. The property, upon acquisition by FmHA, will be subject to any applicable USDA restrictions regarding the use of property containing wetlands, floodplains and/or highly erodible lands.

7. If the lease term has not started on or before 2 years from the date of this agreement, the agreement will end and be of no further force or effect. The borrower may appeal this decision pursuant to 7 CFR part 1900, subpart B.

Farmers Home Administration Lessee

By: _____

County Supervisor

Date: _____

23. Exhibit O to subpart S is revised to read as follows:

Exhibit O—Notice of Availability of Leaseback/Buyback

(For use by the County Supervisor to advise a former owner who held title to the property of the availability of leaseback/buyback)

United States Department of Agriculture
Farmers Home Administration

(Location)

Certified Mail

Return Receipt Requested

(Name and Address)

Date: _____

Dear _____:

The farm that you once owned may be available for you to buy or lease under certain conditions set out in Farmers Home Administration (FmHA) leaseback/buyback regulations, 7 CFR part 1951, subpart S. FmHA acquired this property on _____. The FmHA leaseback/buyback program may permit you to lease or purchase the property. You may select the terms of the lease which may be from 1 year to 5 years. The purchase may be for cash or under certain circumstances FmHA may be able to finance the purchase of the property through a credit sale. If you would like to know more about the leaseback/buyback program, please contact the County Supervisor at _____. In order to be considered for leaseback/buyback, you must make application at the County Office not later than (enter the date 180 days from acquisition or period longer than 180 days if applicable State laws prescribe a longer period). We recommend that if you are interested in leasing or purchasing the property, you should immediately contact the County Office to determine if a lease or purchase agreement can be entered into.

[If the borrower was an individual] If you are not interested in purchasing or leasing the property and if you have a spouse or child who are actively engaged in farming, they have a preference to buy or lease the property. It will be your responsibility to notify your spouse and child of their possible rights to lease or buy the property. You should have them contact the County Supervisor if they are interested in leasing or buying the property or want more information. In order to participate in the leaseback/buyback program they must make application not later than (enter the date 190 days from date of acquisition or period longer than 190 days if applicable State laws prescribe a longer period). If you have a spouse or child that are interested in leasing or purchasing the property, we recommend they immediately contact the County Office to determine if a lease or purchase agreement can be entered into.

[If the borrower was an entity] If you are not interested in purchasing or leasing the property the shareholders (if the borrower was a corporation owned exclusively by members of the same family), partners (if the borrower was a partnership whose partners are exclusively members of the same family), or members (if the borrower was a joint

operation or cooperative whose members are exclusively members of the same family) may have a preference to lease or purchase the farm. In order to qualify for leaseback/buyback the individual must be actively engaged in farming. You must have these people contact the County Supervisor if they are interested in leasing or buying the property or want more information. In order to participate in the leaseback/buyback program they must make application not later than (enter the date 190 days from date of acquisition or period longer than 190 days if applicable State laws prescribe a longer period). If any of these individuals are interested in leasing or purchasing the property, we recommend they immediately contact the County Office to determine if a lease or purchase agreement can be entered into.

Under some circumstances, an operator (lessee) of the property at the time FmHA acquired it may have a preference in leasing and purchasing the property. Please advise us immediately of the name and address of any lessee of the farm who was operating the farm when FmHA acquired it.

[If the property has a dwelling] This property has a dwelling which is subject to the FmHA Homestead Protection regulations 7 CFR 1951, Subpart S. If you are eligible for Homestead Protection, you will be notified in a separate letter. If someone else has Homestead Protection rights, then Homestead Protection rights will take priority over leaseback/buyback rights.

Failure to apply for leaseback/buyback by (insert date 180 days from date of acquisition or longer period than 180 days if applicable State laws prescribe a longer period) will terminate any rights that you have to purchase or lease the property under the leaseback/buyback regulations.

Sincerely,

County Supervisor.

PART 1955—PROPERTY MANAGEMENT

24. The authority citation for part 1955 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 AND 2.70.

Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property

25. Section 1955.15 is amended by revising paragraphs (d)(2)(iv)(C) and (D) to read as follows:

§ 1955.15 Foreclosure by the Government of loans secured by real estate.

(d) * * *

(2) * * *

(iv) * * *

(C) When the borrower's dwelling is financed with an SFH loan(s) and is on a non-farm tract which does not serve as additional security for the Farmer Program loan(s), it will NOT be accelerated simultaneously with sending out attachments 5 and 6, or 5-A and 6-A, or attachment 9 and 10, or 9-A and 10-A, of exhibit A of subpart S of part 1951 of this chapter, as applicable, unless it is subject to liquidation based on provisions of § 1965.125 of subpart C of part 1965 of this chapter, taking into consideration the prospects for success that may evolve when the borrower's livelihood is from a source other than the farming operation. If the SFH loan is in default and subject to liquidation based on provisions of § 1965.125 of subpart C of part 1965 of this chapter, the SFH loan(s) must be accelerated at the same time the borrower is sent attachment 5 and 6, or 5-A and 6-A, or attachments 9 and 10, or 9-A and 10-A, to exhibit A of subpart S of part 1951 of this chapter, as applicable. For those borrowers who are in non-monetary default on their Farmer Programs loans and fail to return attachment 4 of exhibit

A of subpart S of part 1951 of this chapter, the Farmer Programs loans and SFH loans will be accelerated at the same time. If the borrower appeals, one appeal hearing and one review will be held for both adverse actions.

(D) If a borrower's FP loan(s) were accelerated prior to May 7, 1987, and the SFH loan(s) is not accelerated, the SFH loan will be accelerated at the same time the borrower is sent attachments 5 and 6, or 5-A and 6-A, or attachments 7 and 8 to exhibit A of subpart S of 1951 of this chapter, as applicable, unless the requirements of either § 1965.25(d) or § 1965.26(c)(2) of subpart A of part 1965 of this chapter are met or the liquidation of the SFH loan is based on provisions of § 1965.125 of subpart C of part 1965 of this chapter. If the borrower is sent attachments 5 and 6, or 5-A and 6-A to exhibit A of subpart S of 1951 of this chapter, as applicable, and requests an appeal, one hearing and one review will be held for both the adverse action on the FP loan restructuring request and SFH acceleration notices. If the borrower is sent attachments 7 and 8 to exhibit A of subpart S of 1951 of this chapter, there are no further appeals on the FP loans; but, the borrower is entitled to a hearing and a review on the SFH acceleration notice.

* * * * *

Dated: February 26, 1992.

Roland R. Vautour,

Under Secretary for Small Community and Rural Development.

[FR Doc. 92-9652 Filed 4-29-92; 8:45 am]

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Federal Register

Thursday
April 30, 1992

Part V

**Department of
Agriculture**

Farmers Home Administration

**7 CFR Part 1941 et al.
Pledging All Assets as Collateral for
Insured Farmer Program Loans; Final
Rule**

DEPARTMENT OF AGRICULTURE

7 CFR Parts 1941, 1943, 1945, 1951, 1962, 1965, and 1980

Pledging All Assets as Collateral for Insured Farmer Program Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to require a lien on all property owned by an FmHA borrower when such borrower receives an FmHA insured loan. The reason for amending these regulations is to tighten security requirements and the test for obtaining credit elsewhere. The intended effect is to increase the protection of the Government's interest and reduce Government losses.

EFFECTIVE DATE: April 30, 1992.

FOR FURTHER INFORMATION CONTACT: Mark Falcone, Senior Loan Officer, Farmer Programs Loan Making Division, Farmers Home Administration, USDA, South Building, 14th Street and Independence Avenue SW., Washington, DC 20250, telephone (202) 690-4019.

SUPPLEMENTARY INFORMATION:

Classification

This action was reviewed under USDA procedures established in Department Regulation 1512-1, which implements Executive Order 12291, and has been determined to be nonmajor because it will not result in an annual effect on the economy of \$100 million or more.

Intergovernmental Consultation

For the reasons set forth in the final rule related to Notice 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Farm Ownership Loans, Farm Operating Loans, and Emergency Loans are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials. The Soil and Water Program, however, is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

- 10.404—Emergency Loans
- 10.406—Farm Operating Loans
- 10.407—Farm Ownership Loans
- 10.416—Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Discussion of Final Rule

On February 15, 1991, FmHA published a proposed rule on this issue in the *Federal Register* (56 FR 6315-6319) with a comment period ending March 18, 1991. The purpose of this final rule is to require FmHA borrowers to pledge all their assets as collateral when they receive an FmHA insured loan (exceptions are noted in this rule). Poor economic conditions in the 1980's significantly reduced farmland values and caused many family farmers to default on their loans, which eroded FmHA's security position. As a result, FmHA has incurred significant losses. Therefore, FmHA amends its regulations in an attempt to prevent additional Government losses. Tightening security requirements will also encourage applicants to pursue more vigorously the requirement to obtain credit through other sources, which will allow FmHA to allocate its limited allotment of insured funds to truly needy eligible family size farmers and ranchers. Amendments have also been made to allow FmHA personnel more flexibility to approve subordination requests and to release liens when the remaining security will be adequate. FmHA has written off billions of dollars in farm debt in recent years, largely because many loans were undersecured. These changes will reduce Government losses, prevent borrowers from overextending themselves, and enhance FmHA's ability to provide supervised credit.

Discussion of Comments and Changes

Five comment letters were received by the close of business on March 25, 1991. The deadline for receiving written comments was March 18, 1991. Comments were received from several groups representing farmers, a State Commissioner of Agriculture, a United States Senator, and the Farmer Program Committee Chairperson of the FmHA National Association of County Supervisors. Two commenters raised

issues that did not relate to the changes addressed in the proposed rule.

Several commenters agreed additional steps should be taken to reduce Government losses and protect the public's interest, and favorably commented on the proposed changes that would further encourage those applicants who have the ability to obtain credit elsewhere to do so.

One commenter agreed that subsistence livestock and properties that had environmental problems or no value should not be taken as collateral. The same commenter raised concerns on taking personal assets, including reserves for medical and education expenses, for collateral. One of the exceptions in the proposed rule stated that cash or special collateral accounts for necessary family living expenses would not be taken for collateral. This exception has been included in the final rule.

Another commenter recommended that personal vehicles be included under items not to be taken for collateral. The Agency has adopted this comment. The Agency has had a longstanding policy of not taking a lien on personal vehicles. This regulation change was not intended to change this policy.

Two commenters believe that implementing these changes run counter to the intent of the Administration and Congress to assist FmHA borrowers to graduate when they are able to obtain credit elsewhere, since all assets would be pledged to FmHA. The graduation process will not be impeded as regulations allow for the release of additional security in certain situations. Additionally, as a result of this concern, the Agency has amended its regulations to allow FmHA personnel more flexibility to release additional security and approve subordinations for insured loans, and more flexibility to approve subordinations of insured loan security for guaranteed loans.

Another concern of a commenter was that the requirement to pledge all assets may result in some borrowers initially pledging security beyond that needed for collateralization, which could result in additional paperwork to obtain a release of additional security. However, the Agency believes this inconvenience will be offset by the increased protection of the Government's interest. If the additional security available is greatly in excess of the basic collateral required, the borrower should be able to obtain commercial credit by pledging these assets. Also, the paperwork burden on the borrower is substantially less when a release of security is requested than it is for a loan

application request. The Agency believes this final rule will help prevent additional government losses without having a substantial adverse effect on FmHA borrowers.

In addition, the proposed change in § 1943.69(c) of subpart B of part 1943 and § 1945.169(b) of subpart D of part 1945 stated that a lien will not be taken on chattel property if it will prevent the borrower from obtaining credit from other sources or the FmHA. The Agency has implemented this proposed change and has also included this change in § 1943.19(c) of subpart A of part 1943 as it was inadvertently left out of this subpart in the proposed rule. It has also been included in § 1941.19(b) of subpart A of part 1941 in case an applicant is able to obtain other types of operating credit from other sources in conjunction with an FmHA operating loan.

One commenter stated that FmHA losses resulting from under-collateralized loans in the 1980's were primarily due to the severe farm depression and emergency loan programs that were too liberal. While the severe farm depression is over, the economic emergency loan program has been repealed, and emergency loan regulations now are more stringent, the Agency still has one statutorily mandated program which has the potential to cause more Government losses. The Supplemental Appropriations Act of 1987 requires the Agency to continue to make annual operating loans to delinquent borrowers who meet certain criteria. Since these delinquent borrowers are not required to pay principal or interest on debts other than the annual operating loan and any supplier credit needed for the current crop, the borrowers' net worth is likely to continue to erode. Providing assistance as required by this law and the possibility of future declines in the farm economy are additional reasons to require the pledging of all assets.

An introductory text has been added in § 1941.19(b) of subpart A of part 1941, § 1943.19(b) of subpart A of part 1943, § 1943.69(b) of subpart B of part 1943, and § 1945.169(b) of subpart D of part 1945 to instruct the County Supervisor to clearly document in the file which exceptions are being used when a lien is not being taken on all assets.

Other changes in §§ 1941.19(b), 1943.19(b), 1943.69(b), and 1945.169(b) have been made to further clarify when a lien will not be taken on property. The Agency has omitted the exception in each of these sections that stated in the proposed rule that a lien would not be taken on property that did not have liquidation value. Although certain property might not have liquidation

value at the time a loan is made, the Agency has decided to take a lien on such property as it could have equity in the future. These additional liens, thus, may aid in preventing losses to the Government.

The Agency had proposed to remove § 1945.169(e) of subpart D of part 1945. This section allows the loan approval official to accept the available collateral and the applicant's repayment ability as security for an emergency loan, when adequate security is not available as a result of a disaster and when certain other conditions are met. Since this is a statutory requirement, this section will not be removed.

Sections 1943.24(g) and 1945.156(b)(3) have been removed as unnecessary in light of the changes made in this rule. These paragraphs concern the sale and/or pledge of non-essential assets to FmHA as a condition for receiving a loan. All security requirements for §§ 1943-A and 1945-D are now covered in §§ 1943.19 and 1945.169, respectively.

Paragraph (c)(4) of § 1945.175 concerned taking a lien on real estate as "additional security." Paragraph (c)(6) addressed the use of abbreviated appraisals when borrower equity would adequately secure the loan. These paragraphs were removed as unnecessary given the changes made in this regulation. Paragraph (c)(1) also has been revised to remove all exceptions to the appraisal requirement for real estate security. This change makes the paragraph consistent with newly designated (c)(4) which provides no exceptions to the appraisal requirements for chattel security.

In response to public concern that the lien on all assets policy would adversely affect the borrower's ability to graduate or obtain outside credit, § 1962.17(c) of subpart A of part 1962 has been revised to provide the County Supervisor with more flexibility to release chattel liens when adequate security will be available after the release. Chattel liens now may be released for any authorized Farmer Programs loan purpose. The prior regulation was more restrictive in that it only allowed releases for essential expenses. Section 1962.30 also has been revised to provide the loan approval official with more flexibility to approve subordinations when FmHA's security interest will not be adversely affected. Paragraph (b)(1) referencing a subordination for an annual production loan to a delinquent borrower has been removed. The Agency believes this paragraph was redundant as § 1962.17 now states that chattel liens can be released for any authorized Farmer Programs purpose. Newly designated paragraph (b)(6) was revised

accordingly to reference the broadened authority to make advances for any authorized Farmer Programs loan purpose.

As with chattel release provisions, § 1965.12 of subpart A of part 1965 has been revised to broaden the FmHA official's authority to grant subordinations for any authorized Farmer Programs loan purpose subject to certain conditions. Paragraph (a)(6) of this section also has been removed. It provided for allowing subordinations only if the borrower's ability to repay the FmHA loan was improved or was necessary to place the borrower's operation on a sound basis. This restriction was felt to be too subjective and is unnecessary to retain in light of the other revisions to the section. Paragraph (a)(7) is also removed because it stated that loan funds resulting from the subordinations could not conflict with loan purposes, restrictions or requirements. This paragraph is no longer necessary in light of FmHA's broadened authority to approve subordinations for any authorized Farmer Programs loan purpose. The remaining paragraphs in existing subsection (a) were renumbered and additional paragraphs were added which previously appeared in subsection (b). Since subsection (a) now addresses the purposes for which subordinations may be granted, subsection (b) was revised to reflect the conditions for granting subordinations when a member of an entity wishes to obtain financing for the member's individual operation. This was a necessary addition given the Agency's decision to take a lien on all the assets of not only the entity but also all of the entity's members.

Section 1965.25(a) has been revised to permit the release of additional security that is owned by members of an entity in certain cases. Now real estate owned by entity members may be released if it is needed to finance a separate operation, the remaining security will adequately secure the loan, and a subordination cannot be approved for the same purpose. Existing subsection (a) concerning the release of additional security for a loan was deleted as inconsistent with the Agency's policy to take a lien on all borrower assets. Under the new policy, there will be no "additional security" to be released without compensation. Furthermore, § 1965.13 adequately addresses the conditions for FmHA release of real estate security.

Section 1980.108(a)(1) (iii) and (iv) of subpart B of part 1980 has been revised to include additional situations when

subordinations can be approved, and to clarify security conditions when the lender has made a guaranteed loan and an unguaranteed loan to the same borrower.

Several administrative, grammatical, and reference changes have been made in the final rule to provide clarification and consistency.

List of Subjects

7 CFR Part 1941

Crops, Livestock, Loan programs—Agriculture, Rural areas, Youth.

7 CFR Part 1943

Credit, Loan programs—Agriculture, Recreation, Water resources.

7 CFR Part 1945

Agriculture, Disaster assistance, Intergovernmental relations, Livestock, Loan programs—Agriculture.

7 CFR Part 1951

Account servicing, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing loans—Servicing, Debt restructuring.

7 CFR Part 1962

Crops, Government property, Livestock, Loan programs—Agriculture, Rural areas.

7 CFR Part 1965

Foreclosure, Loan programs—Agriculture, Rural areas.

7 CFR Part 1980

Agriculture, Loan programs—Agriculture.

Therefore, chapter XVIII, title 7, Code of Federal Regulations, is amended as follows:

PART 1941—OPERATING LOANS

1. The authority citation for part 1941 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Operating Loan Policies, Procedures, and Authorizations

2. Section 1941.18 is amended by revising the second sentence of paragraph (b)(2) to read as follows:

§ 1941.18 Rates and terms.

(b) * * *

(2) * * * When an OL loan for annual production purposes is scheduled for repayment in one installment, the installment must fall due no later than

18 months from the date of loan closing. * * *

(3) Section 1941.19 is amended by removing paragraph (b); by redesignating paragraph (a) as (b) and adding an introductory text; by redesignating the introductory text of the section as paragraph (a) and revising it; by redesignating newly redesignated paragraphs (b)(1) through (b)(4) as (b)(3) through (b)(6), respectively, and adding new paragraphs (b)(1) and (b)(2); and by revising newly redesignated paragraph (b)(4) to read as follows:

§ 1941.19 Security

(a) *Real estate and chattels.* The loan must be secured by a first lien on all property or products acquired, produced, or refinanced with loan funds and by additional security consisting of the best lien obtainable on all other assets owned by the applicant. When a loan is made to an individual applicant, the loan approval official will require the best lien obtainable on all assets owned by the applicant. When a loan is made to an entity, the loan approval official will require the best lien obtainable on all assets owned by the applicant, and all assets owned by all members of the entity. Different lien positions on real estate are considered separate and identifiable collateral. In unusual cases, the loan approval official may require a cosigner as defined in § 1910.3 (d) of subpart A of part 1910 of this chapter or a pledge of security from someone other than the borrower(s). Generally, a pledge of security is preferable to a cosigner. Liens may be subordinated to another lender in accordance with § 1962.30 of subpart A of part 1962 of this chapter when the subordination will help the borrower to accomplish the objectives of the loan.

(1) Security will include, but is not limited to, the following: Land, buildings, structures, fixtures, machinery, equipment, livestock, livestock products, growing crops, stored crops, inventory, supplies, accounts receivable, certain cash or special cash collateral accounts, marketable securities, certificates of ownership of precious metals, and cash surrender value of life insurance.

(2) Security will also include assignments of leases or leasehold interests having mortgageable value, revenues, royalties from mineral rights, patents and copyrights, and pledges of security by third parties.

(3) Advice on obtaining security will be received from OGC when necessary.

(b) *Exceptions.* The County Supervisor will clearly document in the file when security is not taken for any of the following reasons:

(1) A lien will not be taken on property when it will prevent the applicant, or members of an entity applicant, from obtaining operating credit from other sources.

(2) A lien will not be taken on property that could have significant environmental problems/costs (e.g., known or suspected underground storage tanks or hazardous wastes, contingent liabilities, wetlands, endangered species, historic properties). Guidance is provided in part II, item H of exhibit A of FmHA instruction 422.1 (available in any FmHA office) as to the action to be taken when the appraiser indicates that the property is subject to any hazards, detriments or limiting conditions.

(4) A lien will not be taken on subsistence livestock; cash or special cash collateral accounts to be used for the farming operation or for necessary living expenses; all types of retirement accounts; personal vehicles necessary for family living or farm operating purposes; household goods; and small tools and small equipment, such as hand tools, power lawn mowers, and other similar items not needed for security purposes.

§ 1941.19 [Amended]

4. Section 1941.19 is amended by removing the word "Agricultural" in the first sentence of paragraph (f)(1), by removing the word "Farm" in paragraph (f)(2), and by changing the word "may" to "will" in the first sentence of paragraph (g) introductory text.

5. Section 1941.25 is amended by revising paragraphs (a) (1) and (2) and adding paragraph (3) to read as follows:

§ 1941.25 Appraisals.

(a) * * *

(1) When an initial loan is made, a chattel appraisal is required on all chattel property owned by the applicant, and on chattel property to be acquired when the item can be specifically identified.

(2) When a subsequent loan is made, a chattel appraisal is required when:

(i) Refinancing chattel debt.

(ii) The existing chattel appraisal is more than 2 years old.

(3) A real estate appraisal is required when real estate is taken as security.

§ 1941.33 [Amended]

6. Section 1941.33 is amended by changing the words "any special" to "all" in paragraph (b)(2)(ii).

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

7. The authority citation for part 1943 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Insured Farm Ownership Loan Policies, Procedures, and Authorizations

8. Section 1943.16 is amended by revising the introductory text of paragraph (c)(1) to read as follows:

§ 1943.16 Loan purposes.

(c) * * *

(1) Funds may be used to pay for development costs on land owned with defective title or on land in which the applicant owns an undivided interest, provided:

§ 1943.18 [Amended]

9. Section 1943.18(b) introductory text is amended by adding the word "of" in front of the word "assistance" in the third sentence; by changing the reference in paragraph (b)(1) from "§ 1943.4 (i)" to "§ 1943.4," and by changing the reference in paragraph (b)(3) from "§ 1924.6" to "§ 1924.60."

10. Section 1943.19 is amended by removing the paragraphs (d) and (f) and redesignating paragraphs (e), (g) and (h) as (d), (e) and (f), respectively; by adding introductory text to the section; and by revising paragraphs (a), (b) and (c) to read as follows:

§ 1943.19 Security.

Each FO loan will be secured by real estate, or by real estate and a combination of chattels and/or other security.

(a) *Real estate security.* (1) When a loan is made to an individual applicant, the loan approval official will require the best lien obtainable on all assets owned by the applicant. When a loan is made to an entity, the loan approval official will require the best lien obtainable on all assets owned by the applicant, and all assets owned by all members of the entity.

(2) Security will include, but is not limited to, the following: land, buildings, structures, fixtures, machinery, equipment, livestock, livestock products, growing crops, stored crops, inventory, supplies, accounts receivable, certain cash or special cash collateral accounts, marketable securities, certificates of ownership of precious metals, and cash surrender value of life insurance.

(3) Security will also include assignments of leases or leasehold

interests having mortgageable value, revenues, royalties from mineral rights, patents and copyrights, and pledges of security by third parties.

(4) A first lien is required on real estate, when available. In addition, loans will be secured by a junior lien on real estate provided:

(i) Prior lien instruments do not contain provisions for future advances (except for taxes, insurance, other costs needed to protect the security, or reasonable foreclosure costs), cancellation, summary forfeiture, or other clauses that may jeopardize the Government's interest or the applicant's ability to pay the FO loan unless any such undesirable provisions are limited, modified, waived or subordinated insofar as the Government is concerned.

(ii) Agreements are obtained from prior lienholders to give notice of foreclosure to FmHA whenever State law or other arrangements do not require such a notice. Any agreements needed will be obtained as provided in subpart B of part 1927 of this chapter, except as modified by the "Memorandum of Understanding—FCA—FmHA," FmHA Instruction 2000-R (available in any FmHA office).

(5) Advice on obtaining security will be received from OGC when necessary.

(6) The designated attorney, title insurance company, or the OGC will furnish advice on obtaining security when a life estate is involved.

(7) Any loan of \$10,000 or less may be secured by the best lien obtainable without title clearance or legal service as required in subpart B of part 1927 of this chapter provided the County Supervisor believes from a search of the County records that the applicant can give a mortgage on the farm. This exception to title clearance will not apply when:

(i) The loan is made simultaneously with that of another lender.

(ii) Land is to be purchased.

(iii) This provision conflicts with program regulations of any other FmHA loan being made simultaneously with the FO loan.

(8) The Departments of Agriculture and Interior have agreed that FmHA loans may be made to Native Americans and secured by real estate when title is held in trust or restricted status. When security is so taken on real estate held in trust or restricted status:

(i) The applicant will request the Bureau of Indian Affairs (BIA) to furnish Title Status Reports to the County Supervisor; and

(ii) The BIA approval will be obtained on the mortgage after it has been signed by the applicant and any other party whose signature is required.

(b) *Exceptions.* The County Supervisor will clearly document in the file when security is not taken for any of the following reasons:

(1) A lien will not be taken on property that could have significant environmental problems/costs (e.g., known or suspected underground storage tanks or hazardous wastes, contingent liabilities, wetlands, endangered species, historic properties). Guidance is provided in part II, item H of exhibit A of FmHA instruction 422.1 (available in any FmHA office) as to the action to be taken when the appraiser indicates that the property is subject to any hazards, detriments or limiting conditions.

(2) A lien will not be taken on property that cannot be made subject to a valid lien.

(3) A lien will not be taken on subsistence livestock; cash or special cash collateral accounts to be used for the farming operation or for necessary family living expenses; all types of retirement accounts; personal vehicles necessary for family living or farm operating purposes; household goods; and small tools and small equipment, such as hand tools, power lawn mowers, and other similar items not needed for security purposes.

(4) When title to a livestock or crop enterprise is held by a contractor under a written contract or the enterprise is to be managed by the applicant under a share lease agreement, an assignment of all or part of the applicant's share of the income will be taken. A form approved by OGC will be used to obtain the assignment.

(5) A lien will not be taken on marginal land, including timber, when a softwood timber (ST) loan is secured by such land.

(c) *Chattel security.* Loans will be secured by chattels subject to the following conditions:

(1) Taking a lien on chattels will not prevent the applicant, or members of an entity applicant, from obtaining operating credit from other sources or the FmHA.

(2) A first lien will be taken on equipment or fixtures bought with loan funds whenever such property cannot be included in the real estate lien.

(3) Chattel security liens will be obtained and kept effective as notice to third parties as provided in subpart B of Part 1941 and subpart A of part 1962 of this chapter.

§ 1943.19 [Amended]

11. In § 1943.19, newly redesignated paragraph (f) is amended by changing

the reference "paragraph (g)" to "paragraph (e)."

§ 1943.24 [Amended]

12. Section 1943.24 is amended by removing paragraph (g) and by redesignating paragraphs (h) through (l) as paragraphs (g) through (k), respectively.

§ 1943.32 [Amended]

13. Section 1943.32(a) is amended by removing the entry to FmHA Form Number 443-17, "Agreement to Sell Nonessential Real Estate."

§ 1943.33 [Amended]

14. Section 1943.33 is amended by changing the words "any special" to "all" in paragraph (b)(2)(ii).

§ 1943.38 [Amended]

15. In § 1943.38, paragraph (a) is amended by changing the reference "§ 1943.19(b)(4)" to "§ 1943.19(a)(7)".

Subpart B—Insured Soil and Water Loan Policies, Procedures, and Authorizations

16. Section 1943.66(h)(1) introductory text is revised to read as follows:

§ 1943.66 Loan purposes.

(h) * * *

(1) Such a loan may be made on land with defective title owned by the applicant or on land in which the applicant owns an undivided interest providing:

§ 1943.68 [Amended]

17. Section 1943.68(c) is amended by adding the word "of" in front of the word "assistance" in the third sentence.

18. Section 1943.69 is amended by removing paragraph (d); by redesignating paragraphs (e), (f), (g) and (h) as paragraphs (d), (e), (f) and (g), respectively; by adding introductory text to the section; and by revising paragraphs (a), (b), (c), and the introductory text of newly redesignated paragraph (d) to read as follows:

§ 1943.69 Security.

Each SW loan will be secured by real estate, chattels, other security, leaseholds or a combination of these.

(a) *Real estate security.* (1) When a loan is made to an individual applicant, the loan approval official will require the best lien obtainable on all assets owned by the applicant. When a loan is made to an entity, the loan approval official will require the best lien obtainable on all assets owned by the applicant and all assets owned by all members of the entity.

(2) Security will include, but is not limited to, the following: Land, buildings, structures, fixtures, machinery, equipment, livestock, livestock products, growing crops, stored crops, inventory, supplies, accounts receivable, certain cash or special cash collateral accounts, marketable securities, certificates of ownership of precious metals, and cash surrender value of life insurance.

(3) Security will also include assignments of leases or leasehold interests having mortgageable value, revenues, royalties from mineral rights, patents and copyrights, and pledges of security by third parties.

(4) A first lien is required on real estate, when available. In addition, loans will be secured by a junior lien on real estate provided:

(i) Prior lien instruments do not contain provisions for future advances (except for taxes, insurance, other costs needed to protect the security, or reasonable foreclosure costs), cancellation, summary forfeiture, or other clauses that may jeopardize the Government's interest or the applicant's ability to pay the SW loan unless any such undesirable provisions are limited, modified, waived or subordinated insofar as the Government is concerned.

(ii) Agreements are obtained from prior lienholders to give notice of foreclosure to FmHA whenever State law or other arrangements do not require such a notice. Any agreements needed will be obtained as provided in subpart B of part 1927 of this chapter, except as modified by the "Memorandum of Understanding-FCA-FmHA," FmHA Instruction 2000-R (available in any FmHA office).

(5) Advice on obtaining security will be received from OGC when necessary.

(6) The designated attorney, title insurance company, or OGC will furnish advice on obtaining security when a life estate is involved.

(7) Any loan of \$10,000 or less may be secured by the best lien obtainable without title clearance or legal services as required in subpart B of part 1927 of this chapter, provided the County Supervisor believes from a search of the County records that the applicant can give a mortgage on the farm. This exception to title clearance will not apply when:

(i) The loan is made simultaneously with that of another lender.

(ii) This provision conflicts with program regulations of any other FmHA loan being made simultaneously with the SW loan.

(8) The Departments of Agriculture and Interior have agreed that FmHA loans may be made to Native Americans and secured by real estate when title is

held in trust or restricted status. When security is so taken on real estate held in trust or restrictive status:

(i) The applicant will request the Bureau of Indian Affairs (BIA) to furnish Title Status Reports to the County Supervisor; and

(ii) The BIA approval will be obtained on the mortgage after it has been signed by the applicant and any other party whose signature is required.

(b) *Exceptions.* The County Supervisor will clearly document in the file when security is not taken for any of the following reasons:

(1) A lien will not be taken on property that could have significant environmental problems/costs (e.g., known or suspected underground storage tanks or hazardous wastes, contingent liabilities, wetlands, endangered species, historic properties). Guidance is provided in part II, item H of exhibit A of FmHA instruction 422.1 (available in any FmHA office) as to the action to be taken when the appraiser indicates that the property is subject to any hazards, detriments or limiting conditions.

(2) A lien will not be taken on property that cannot be made subject to a valid lien.

(3) A lien will not be taken on subsistence livestock; cash or special cash collateral accounts to be used for the farming operation or for necessary family living expenses; all types of retirement accounts; personal vehicles necessary for family living and farm operating purposes; household goods; and small tools and small equipment, such as hand tools, power lawn mowers, and other similar items not needed for security purposes.

(4) When title to a livestock or crop enterprise is held by a contractor under a written contract or the enterprise is to be managed by the applicant under a share lease agreement, an assignment of all or part of the applicant's share of the income will be taken. A form approved by OGC will be used to obtain the assignment.

(5) A lien will not be taken on marginal land, including timber, when a softwood timber (ST) loan is secured by such land.

(c) *Chattel security.* Loans will be secured by chattels subject to the following conditions:

(1) Taking a lien on chattels will not prevent the applicant, or members of an entity applicant, from obtaining operating credit from other sources or the FmHA.

(2) A first lien will be taken on equipment or fixtures brought with loan

funds whenever such property cannot be included in the real estate lien.

(3) When a loan is made only for the purchase of shares of water stock, such stock will be pledged or assigned as security for the loan.

(4) If there is no real estate security available and a lien is taken on chattels only, the loan cannot be over \$100,000 and must be scheduled for repayment within 20 years or the useful life of the security, whichever is less.

(5) Chattel security will be obtained and kept effective as notice to third parties as provided in subpart B of part 1941 and subpart A of part 1962 of this chapter.

(d) *Loans secured by leaseholds.* A loan will be secured by a mortgage on the leasehold if it has negotiable value and is able to be mortgaged, subject to the following:

§ 1943.69 [Amended]

19. In § 1943.69, newly designated paragraph (d)(3)(vi) is amended by changing the word "ligation" to "litigation", and newly redesignated paragraph (g) is amended by changing the reference "paragraph (g)" to "paragraph (f)."

§ 1943.73 [Amended]

20. In § 1943.73, the last sentence in paragraph (a) introductory text is amended by adding the word "are" before the word "planned."

§ 1943.83 [Amended]

21. Section 1943.83 is amended by changing the words "any special" to "all" in paragraph (b)(2)(ii).

§ 1943.88 [Amended]

22. In § 1943.88, paragraph (a) is amended by changing the reference "paragraph 1943.69(b)(5)" to "paragraph 1943.69(a)(7).", and the first sentence of paragraph (c) is amended to add the word "the" in front of the word "applicant."

PART 1945—EMERGENCY

23. The authority citation for part 1945 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart D—Emergency Loan Policies, Procedures and Authorizations

§ 1945.156 [Amended]

24. Section 1945.156 is amended by removing paragraph (b)(3).

25. Section 1945.169 is amended by revising the section heading; by removing the introductory text and paragraphs (e) through (i); by

redesignating paragraphs (b), (c) and (d), as (c), (d) and (e), and paragraphs (j) through (r) as (f) through (n), respectively; by revising paragraph (a) and newly redesignated paragraph (d) (1) and (3); and by adding new paragraph (b) to read as follows:

§ 1945.169 Security.

(a) *Real estate and chattels.*

Emergency loans made for subtitle B (operating) purposes will be secured by a first lien on the crop(s) and/or livestock and livestock products being financed with EM loan funds and by additional security consisting of the best lien obtainable on all other assets owned by the applicant. Emergency loans made for subtitle A (real estate) purposes will be secured by a lien on all assets.

(1) When a loan is made to an individual applicant, the loan approval official will require the best lien obtainable on all assets owned by the applicant. When a loan is made to an entity, the loan approval official will require the best lien obtainable on all assets owned by the applicant, and all assets owned by all members of the entity.

(2) Security for loans will include, but is not limited to, the following: land, buildings, structures, fixtures, machinery, equipment, livestock, livestock products, growing crops, stored crops, inventory, supplies, accounts receivable, certain cash or special cash collateral accounts, marketable securities, certificates of ownership of precious metals, and cash surrender value of life insurance. Security will also include assignments of leases or leasehold interests having mortgageable value, revenues, royalties from mineral rights, patents and copyrights, and pledges of security by third parties.

(3) The same collateral may be used to secure two or more loans made, insured and/or guaranteed, to the same borrower. Accordingly, when an EM loan is made to an indebted FmHA guaranteed loan borrower, a junior lien may be taken on the same chattels and/or real estate that serves as collateral for the guaranteed loan(s).

(4) Advice on obtaining security will be received from OGC when necessary.

(b) *Exceptions.* The County Supervisor will clearly document in the file when security is not taken for any of the following reasons:

(1) A lien will not be taken on property that could have significant environmental problems/costs (e.g., known or suspected underground storage tanks or hazardous wastes, contingent liabilities, wetlands,

endangered species, historic properties). Guidance is provided in part II, item H of exhibit A of FmHA instruction 422.1 (available in any FmHA office) as to the action to be taken when the appraiser indicates that the property is subject to any hazards, detriments or limiting conditions.

(2) A lien will not be taken on property that cannot be made subject to a valid lien.

(3) A lien will not be taken on subsistence livestock; cash or special cash collateral accounts to be used for the farming operation or for necessary family living expenses; all types of retirement accounts; personal vehicles necessary for family living and farm operating purposes; household goods; and small tools and small equipment, such as hand tools, power lawn mowers, and other similar items not needed for security purposes.

(4) When title to a livestock or crop enterprise is held by a contractor under a written contract or the enterprise is to be managed by the applicant under a share lease agreement, an assignment of all or part of the applicant's share of the income will be taken. A form approved by OGC will be used to obtain the assignment.

(5) A lien will not be taken on marginal land, including timber, when a softwood timber (ST) loan is secured by such land.

(6) When a loan is made for real estate purposes, a lien will not be taken on chattels if it will prevent the applicant, or members of an entity applicant, from obtaining operating credit from other sources or the FmHA.

(7) Chattel security liens will be obtained and kept effective as notice to third parties as provided in subpart B of part 1941 and subpart A of part 1962 of this chapter.

(d) *Personal and corporate guarantees by cosigners.* (1) The loan approval official may require additional personal and/or corporate guarantees by a cosigner(s), including guarantees from parent, subsidiary or affiliated companies; relatives of the applicant; or any other willing party having equity in mortgageable assets. The loan approval official will require that such guarantees be secured by collateral which has equity value.

(3) When security is taken under paragraph (d) of this section, chattel security will be serviced in accordance with subpart A of part 1962 of this chapter. Real estate security will be

served in accordance with subpart A of part 1965 of this chapter.

§ 1945.169 [Amended]

26. In § 1945.169, newly redesignated paragraph (f)(3) is amended by changing the reference "paragraph (j)(2)" to "paragraph (f)(2)"; newly redesignated paragraph (f)(4) introductory text is amended by changing the reference "paragraphs (j)(1), (2) and (3)" to "paragraphs (f)(1), (2) and (3)"; and newly redesignated paragraph (j)(3) is amended by changing the reference "paragraph (n)(1)" to "paragraph (j)(1)."

27. Section 1945.175 is amended by removing paragraphs (c)(4) and (c)(6); by redesignating paragraph (c)(5) as (c)(4); by changing the reference in paragraph (c)(3) from "§ 1945.169(r)(1)" to "§ 1945.169(n)(1)"; and by revising paragraph (c)(1) introductory text to read as follows:

§ 1945.175 Options, planning and appraisals.

(c) * * *

(1) Real estate appraisals will be completed, on Form FmHA 422-1, "Appraisal Report—Farm Tract," or Form FmHA 1922-8, Residential Appraisal Report, for farm real estate or residential farm real estate, respectively, by an FmHA employee authorized to make farm appraisals, when real estate is taken as security for the EM loan. The rights to mining products, gravel, oil, gas, coal, or other minerals will be considered a portion of the security and will be specifically included as a part of the appraised value of the real estate securing the loans using Form FmHA 1922-11, "Appraisal for Mineral Rights."

28. In section 1945.183, paragraph (d)(1) is revised to read as follows:

§ 1945.183 Loan approval or disapproval.

(d) * * *

(1) The loan approval official will date, sign and distribute Form FmHA 1940-1 in accordance with the FMI and set forth all security requirements and any special conditions of approval in the appropriate section on Form FmHA 1940-1.

PART 1951—SERVICING AND COLLECTIONS

29. The authority citation for part 1951 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Account Servicing Policies

§ 1951.10 [Amended]

30. Section 1951.10 is amended by removing paragraph (a)(5) and by redesignating paragraphs (a)(6) and (a)(7) as paragraphs (a)(5) and (a)(6).

PART 1962—PERSONAL PROPERTY

31. The authority citation for part 1962 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Servicing and Liquidation of Chattel Security

32. Section 1962.17 is amended by removing paragraph (c)(6) and by revising paragraph (c)(5) to read as follows:

§ 1962.17 Disposal of chattel security, use of proceeds and release of lien.

(c) * * *

(5) Liens on separate items of chattels can be released to another creditor for any authorized Farmer Programs loan purpose when it has been determined by a current appraisal that the value of the remaining security is substantially greater than the remaining FmHA debt.

33. Section 1962.30 is amended by revising paragraph (a); by removing paragraph (b)(1) and redesignating paragraphs (b)(2) through (b)(9) as (b)(1) through (b)(8), respectively; and by revising newly redesignated paragraphs (b)(1), (b)(4), (b)(5), and (b)(6) to read as follows:

§ 1962.30 Subordination and waiver of FmHA liens of chattel security.

(a) *Purposes.* Subject to the limitations set out in paragraph (b) of this section, FmHA chattel liens may be subordinated to a lien of another creditor to permit that creditor to lend for any authorized Farmer Programs loan purpose provided FmHA's security interest will not be adversely affected.

(b) *Limitations.*

(1) An FmHA lien priority should be subordinated to the non-FmHA creditor's lien only so far as crops, livestock increase, feeder livestock, or other normal farm income security is concerned. If the non-FmHA lender will not make a loan unless FmHA agrees to subordinate more of its priority, FmHA may subordinate any lien it holds on basic chattel security. The FmHA should not give up any more of its priority on basic chattel security than is absolutely

necessary to provide the non-FmHA lender with the security it requires.

(4) A subordination in favor of only one creditor will be outstanding at any one time in connection with the same security.

(5) A subordination may also be executed to enable a borrower to obtain necessary crop insurance if the creditor to whom a subordination has been given on that crop consents in writing to payment of the insurance premiums from the crop or insurance proceeds. When a subordination is executed to enable the borrower to obtain crop insurance on crops under lien to FmHA, the borrower will assign the insurance proceeds to FmHA or name FmHA in the loss-payable clause of the policy.

(6) Waivers of FmHA lien priority, instead of subordinations, may be executed in favor of a creditor who has made or will make advances for any authorized Farmer Programs loan purpose.

PART 1965—REAL PROPERTY

34. The authority citation for part 1965 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Servicing of Real Estate Security for Farmer Program Loans and Certain Note-Only Cases

35. Section 1965.12 is amended by revising the heading of the section and the introductory text of paragraph (a); by changing the reference "1965.34(e)" to "§ 1965.34(a)" in the first sentence of the introductory text; by removing paragraphs (a)(6) and (a)(7); by redesignating paragraphs (a)(8) and (a)(9) as (a)(6) and (a)(7), respectively; by adding new paragraphs (a)(8), (a)(9), (a)(10), (a)(11), (a)(12) and (a)(13); by changing the reference "§ 1965.12(b)(2)(ii)(D)" to "this section" in the second sentence of paragraph (f); and by revising paragraph (b), the first sentence in paragraph (e)(2) and paragraph (g) to read as follows:

§ 1965.12 Subordination of FmHA mortgage.

(a) *Conditions for subordination.* A subordination may be granted for any authorized Farmer Programs loan purpose subject to the following conditions:

(8) When a non-farm tract secures an SFH loan, the other lender's funds will

only be used for the same purposes and with the same limitations that would be applicable if an SFH loan were made.

(9) When additional land is to be acquired with proceeds from the subordination, Form FmHA 440-2, "County Committee Certification or Recommendation," will be completed before the subordination is approved. A subordination for purchase of additional land will not be approved without favorable recommendation of the County Committee.

(10) Any proposed development will be planned and performed in accordance with subpart A of part 1924 of this chapter, or in a manner directed by the creditor and agreed to by FmHA which reasonably attains the objectives of subpart A of part 1924 of this chapter.

(11) Funds used to develop or to acquire land will be handled as prescribed in subpart A of part 1902 of this chapter. If the creditor will not permit the use of a supervised bank account, FmHA and the creditor may agree to another arrangements which will assure that funds will be spent for the planned purposes.

(12) In cases of land purchase or exchange of property, the FmHA will obtain a valid mortgage on the acquired land. Title clearance and loan closing will be required as for an initial or subsequent FO loan, as appropriate. The mortgage will be recorded when the subordination is delivered to the other lender.

(13) When FmHA subordinates its lien to that of another lender when the primary purpose of the new loan funds is not to reduce the existing FmHA loan, written justification for allowing the subordination must be prepared and made a part of the borrower's case file. The approval official will decide whether or not to allow the subordination based on the following factors, which should be addressed in the written justification:

(i) The new loan funds must be needed to accomplish the objectives in § 1965.2 of this subpart;

(ii) The conditions in paragraph (a)(1) through (a)(7) of this section must be met.

(b) *Subordination on real estate owned by an entity member(s).* When the borrower is an entity and FmHA has taken real estate as additional security on property owned by an entity member(s), a subordination for any authorized Farmer Programs loan purpose may be approved when it is needed for the entity member(s) to finance a separate operation. The subordination, however, may be approved only if it does not leave the

FmHA indebtedness inadequately secured or otherwise adversely affected.

(e) * * *

(2) * * * County Supervisors and District Directors may approve subordinations for any authorized Farmer Programs loan purpose when the FmHA indebtedness plus the subordinations does not exceed the official's approval authority for the type(s) of loan(s) as outlined in exhibit C of FmHA instruction 1901-A. * * *

(g) *Reamortizing existing FmHA debts other than SFH.* The County Supervisor, District Director, or State Director (as appropriate) may consent to a reamortization of an existing FmHA debt when a subordination is granted to the debt of another lender. The reamortization will be allowed only when the borrower cannot reasonably be expected to meet installments when due. Reamortizations of Farmer Program loans will be processed in accordance with subpart S of part 1951 of chapter. Reamortization of SFH loans will be processed in accordance with subpart G of part 1951 of this chapter. Refer to § 1965.34(f) of this subpart if an NP loan is involved.

36. Section 1965.25 is amended by revising the section heading and paragraph (a) to read as follows:

§ 1965.25 Release of FmHA mortgage without monetary consideration in certain cases.

(a) *Additional real estate security owned by an entity member(s).* Real estate owned by a member(s) of an entity-borrower, which was taken as additional security for a loan secured by real estate, may be released if it is needed for the entity member(s) to finance a separate operation and the remaining real estate adequately secures the entity loan(s). A release will not be considered if a subordination can be approved for the same purpose. The County Supervisor will document in the case file why a subordination is not feasible.

PART 1980—GENERAL

37. The authority citation for part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70; Public Law 100-387; Public Law 101-82.

Subpart B—Farmer Program Loans

38. Section 1980.108 is amended by revising paragraph (a)(1) (iii) and (iv) to read as follows:

§ 1980.108 General provisions.

(a) * * *

(1) * * *

(iii) When FmHA and a guaranteed lender are involved in separate loans to the same borrower, separate collateral must be clearly identified for both the FmHA's loan and the lender's loan. Different lien positions on real estate are considered separate collateral. FmHA may subordinate an interest in property which secures an FmHA insured loan only in the following circumstances:

(A) To permit a guaranteed lender to advance funds and perfect a security interest in crops, feeder livestock, or livestock products (milk, eggs, wool, etc.).

(B) When the lender requesting the guarantee needs the subordination of FmHA's real estate lien to maintain its lien position when servicing or restructuring.

(C) When the lender requesting the guarantee is refinancing the debt of another lender and FmHA's lien position on real estate security will not be adversely affected.

(iv) When the lender is involved in both a guaranteed loan and an unguaranteed loan to the same borrower, the following will apply:

(A) *Loans secured by chattels.* When there will be like collateral for each loan, the guaranteed loan(s) must be adequately secured by:

(1) A lien on separate collateral that is clearly identifiable; or

(2) A lien of higher priority if the same collateral is used to secure both loans. When the same collateral secures both loans, the lender must agree in writing that scheduled installments on the guaranteed loan will be paid first.

(B) *Loans secured by real estate.* When the same collateral is used to secure both loans, the guaranteed loan must be secured by a lien on separate collateral that is clearly identifiable. Different lien positions on real estate are considered separate and identifiable collateral. The lender must agree, in writing, that scheduled payments on the guaranteed loan will be paid first. In the event of liquidation of real estate security, proceeds will be applied in order of lien priority.

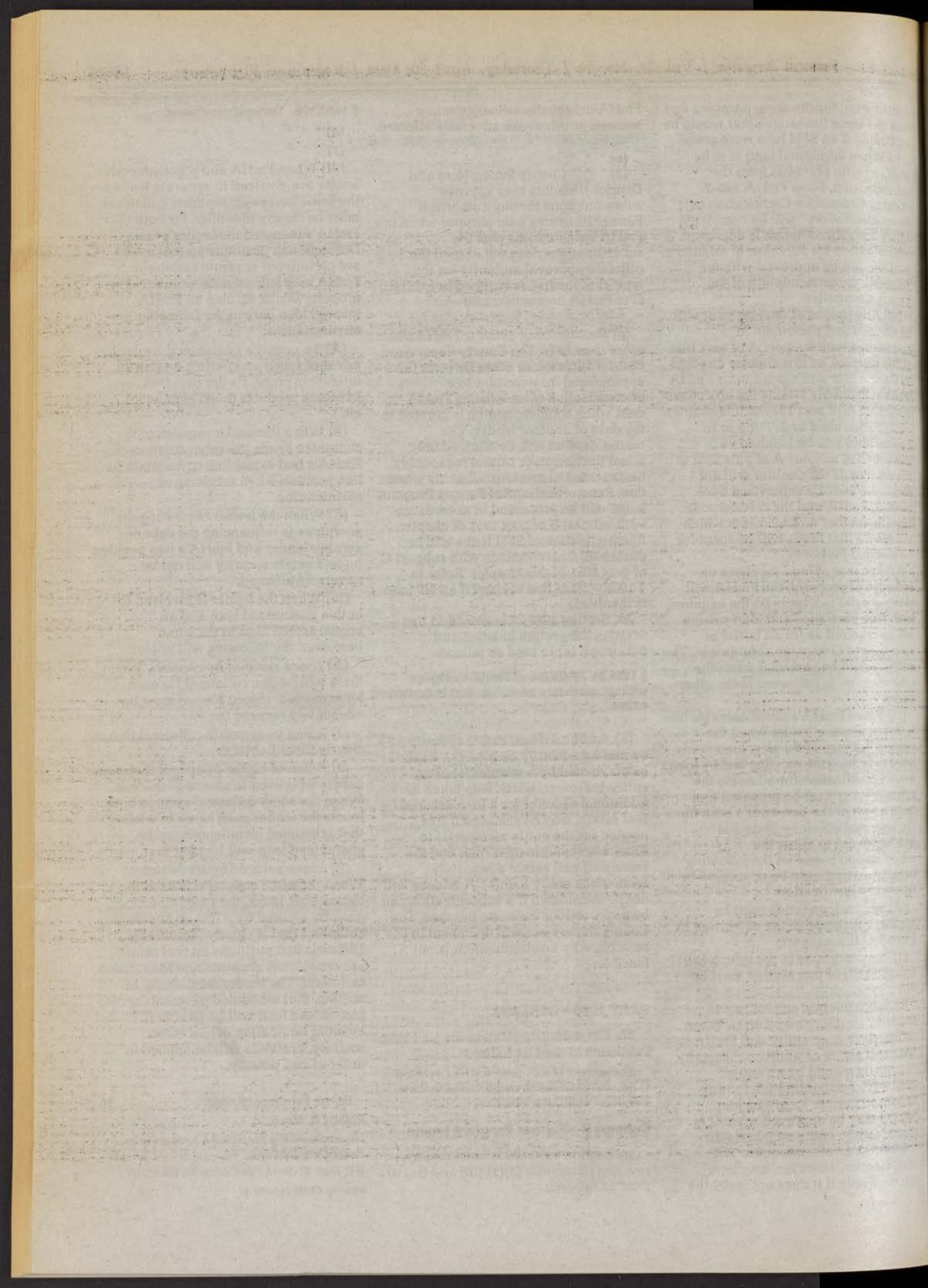
Dated: February 26, 1992.

Roland R. Vautour,

Under Secretary for Small Community and Rural Development.

[FR Doc. 92-9653 Filed 4-29-92; 8:45 am]

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Part VI

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 888

Section 8 Housing Assistance Payments
Program; Proposed Fair Market Rents

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 888

[Docket No. N-92-3426, FR-3233-N-01]

Section 8 Housing Assistance Payments Program; Fair Market Rent Schedules for Use in the Rental Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program and Rental Voucher Program

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed fair market rents.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish Fair Market Rents (FMRs) periodically, but not less frequently than annually, to be effective October 1 of each year. The Department's regulations at 24 CFR part 888 provide a notice and comment process for developing FMRs. Today's document proposes the FMRs for FY-1993. The proposal would amend FMR schedules for the Section 8 Rental Certificate program (part 882, subparts A and B), including space rentals by owners of manufactured homes under the section 8 Rental Certificate program (part 882, subpart F); the Section 8 Moderate Rehabilitation program (part 882, subparts D and E); and housing assisted under the Loan Management and Property Disposition programs (part 886, subparts A and C). In addition, FMRs are used to determine payment standard schedules in the Rental Voucher program.

DATES: Comments are due June 29, 1992.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Office of the General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. To expedite processing, each commenter is requested to simultaneously submit a copy of its comments to the Economic and Market Analysis Staff in the appropriate HUD Field Office. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m.-5:30 p.m. Eastern Time) at the above address.

FOR FURTHER INFORMATION CONTACT: Cecelia D. Livingston, Rental Assistance Division, Office of Assisted Housing, telephone (202) 708-3887; TDD (202) 708-

4594. For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Michael R. Allard, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708-0577; TDD (202) 708-0770. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

Section 8 of the U.S. Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes a housing assistance program to aid low-income families in renting decent, safe, and sanitary housing. Assistance payments are limited by Fair Market Rents (FMRs) (or payment standards based on FMRs in the Rental Voucher program) established by HUD for different areas. In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

The FMRs proposed in this Notice govern the following Section 8 Housing Assistance Payments programs: the Section 8 Rental Certificate program under part 882 (subparts A and B), including space rentals by owners of manufactured homes (subpart F), the Moderate Rehabilitation program under part 882 (subparts D and E), housing assistance for projects with HUD-insured or HUD-held mortgages under part 886 (subpart A), as well as the Property Disposition program under part 886 (subpart C). In addition, FMRs are used to establish payment standards for the Rental Voucher program (part 887).

II. Procedures for the Development of FMRs

Section 8(c) of the Act requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. The Department's regulations provide that HUD will develop FMRs by publishing proposed FMRs for public comment, analyzing the public comment, and publishing final FMRs. (See 24 CFR 888.115.) Final FY-1992 FMRs will be published on or before October 1, 1992, as required by section 8(c)(1) of the Act.

III. Fair Market Rent Schedules

This document proposes revised FMRs, which reflect estimated rent levels as of April 1, 1993. Schedules at the end of this document list the FMR levels for housing (Schedule B) and manufactured home spaces in the Section 8 Certificate program (Schedule D). FMRs for the Moderate Rehabilitation program are 120 percent of the Schedule B Fair Market Rents (see

24 CFR 882.408(a) and 888.113(e)(1)). The FMR for a Single Room Occupancy (SRO) unit in the Rental Certificate program is 75 percent of the efficiency (EFF) unit FMR listed in Schedule B. The FMR for an SRO unit in the Moderate Rehabilitation program is 75 percent of the Moderate Rehabilitation FMR for the EFF unit. The payment standard amount for an SRO unit in the Rental Voucher program is 75 percent of the EFF FMR listed in Schedule B or the geographic area exception rent, approved by HUD under 24 CFR 882.106(a)(3).

IV. Method Used to Develop FMRs

FMRs are gross rent estimates; they include shelter rent and the cost of utilities, except telephone. The criteria used by HUD in developing the FMRs are: (1) The 45th percentile rent of standard quality units (that is, the rent below which 45 percent of the units are distributed); (2) rents based on units occupied by recent movers (households who moved into their unit within two years of the date of the survey data used in the calculations); and (3) rents based on the survey data base that has been adjusted to exclude public housing units and recently completed rental housing units (those built within two years of the survey dates). (See 24 CFR 888.113.)

In establishing the proposed FMRs, HUD uses the most accurate data available. Data sources include, in addition to the 1980 Census, the Consumer Price Indices (CPI) for rental housing and utilities, the post-1980 American Housing Surveys (AHSs), area-specific rent data submitted by public commenters in previous years and data from the Random Digit Dialing (RDD) telephone surveys of HUD Regions and selected FMR areas.

This year's FMRs initiate use on a national basis of the RDD survey results. Two years ago, the Department announced in the proposed FMR publication that it had developed a reliable survey instrument for obtaining FMR estimates and that this instrument was available for use by the public. The RDD telephone survey technique is based on a sampling procedure that uses computers to select statistically random samples of rental housing, dial and keep track of the telephone numbers and tabulate the responses. The RDD technique has been tested and found to yield accurate FMR estimates. In the September 26, 1991 FMR publication of final FMRs for FY 1992, HUD recommended this survey technique as the preferred method for testing FMR accuracy for areas where there is a sufficient number of Section 8 units to justify the survey cost of approximately

\$15,000 to \$20,000. The Department also announced its intention to use RDD surveys to develop future FMR estimates.

In the fall of 1991, the Department let a contract to fund RDD surveys. Starting this year, RDD surveys were conducted for 37 individual FMR areas and for the metropolitan (exclusive of CPI areas) and nonmetropolitan parts of the 10 HUD Regions. The Regional surveys will be repeated each year to determine

annual rent change factors. These 20 surveys are being used in place of CPI rent change data for the four Census Regions. The increased number of rent change factors covering the much smaller and more homogeneous HUD Regions will result in improved FMR accuracy over the current system. In future years, the FMRs of approximately 60 individual FMR areas annually will be revised on the basis of RDD surveys.

The proposed FMRs for most areas (with the exception of areas with their own CPI survey, AHS survey or RDD survey) were calculated by updating last year's final FMRs, using factors developed from the RDD surveys of the 10 HUD regions. The following is a list of the HUD regions, showing rent change factors and the states included in each:

RDD RENT CHANGE FACTORS

HUD region	Metro part	Nonmetro part	States included.
I.....	2.1%	1.5%	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
II.....	2.7%	3.7%	New Jersey, New York.
III.....	3.7%	3.3%	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.
IV.....	2.7%	2.3%	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, Virgin Islands.
V.....	2.6%	1.9%	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.
VI.....	2.9%	1.7%	Arkansas, Louisiana, Oklahoma, New Mexico, Texas.
VII.....	3.5%	1.7%	Iowa, Kansas, Missouri, Nebraska.
VIII.....	3.6%	3.7%	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
IX.....	2.9%	3.1%	Arizona, California, Hawaii, Nevada, Pacific Islands.
X.....	4.9%	4.7%	Alaska, Idaho, Oregon, Washington.

The proposed FMRs for the Pacific Islands and the Virgin Islands have been adjusted using the respective nonmetropolitan RDD rent change factors indicated in the table above. For FMR purposes, the Pacific Islands include Guam, the Mariana Islands and the Trust Territories. Based on a prior consultation with the HUD Caribbean office, the FMRs in Puerto Rico will remain at the current levels.

The individual FMR areas selected for RDD surveys were those that had been recommended in two surveys of the HUD field offices and by an Office of Inspector General audit. The HUD field office surveys requested that each office report on areas with suspected FMR problems. The areas selected were those so identified, where it was also determined, based on the number of Section 8 program units, that it would be cost effective to conduct an RDD survey. The field office review will become an annual part of the FMR development process.

For the 37 individual FMR areas for which RDD surveys were conducted this year, the results are as follows:

Twenty-nine have proposed decreases in their FMRs:

MSA/PMSA

Abilene, TX
Anchorage, AK
Boston, MA
Brockton, MA
Killeen-Temple, TX
Lawrence-Haverhill, MA-NH

Lowell, MA-NH
Nashua, NH
New Orleans, LA
Phoenix, AZ
Portland, OR
Reno, NV
Salem-Gloucester, MA
Salt Lake City-Ogden, UT
San Angelo, TX
Seattle, WA
Springfield, MA
Tucson, AZ
Tulsa, OK

Counties

Mendocino County, CA
Cass County, TX
Delta County, TX
Franklin County, TX
Hopkins County, TX
Lamar County, TX
Morris County, TX
Red River County, TX
Titus County, TX
Cowlitz County, WA

Three areas—El Paso, TX MSA, Stockton, CA MSA, Vancouver, WA PMSA—have proposed FMR increases greater than would have resulted from the normal annual update.

Five have proposed FMRs that required no adjustment and are based on the normal updating factor:

MSA/PMSA

Charlottesville, VA
Jacksonville, FL
Pittsburgh, PA
Richland—Kennewick—Pasco, WA

Scranton—Wilkes-Barre, PA

This year's proposed FMRs also incorporate the results of the 1990 metropolitan area AHSs for eight FMR areas. Of these surveys, three areas—Cincinnati, OH-KY, Denver, CO, and Riverside—San Bernardino, CA—will receive the normal increase based on either the RDD regional or local CPI adjustment factor increase. Three areas—Kansas City, MO-KS, Fort Lauderdale, FL, and Miami, FL—will receive catch-up increases that are larger than the normal updating factors. The FMRs for Anaheim-Santa Ana, CA and San Antonio, TX are proposed with a decrease.

This year's proposed FMRs for manufactured home spaces were calculated by updating last year's FMRs to April 1, 1993, using the respective RDD regional adjustment factor (adjusted to exclude the cost of utilities).

V. Request for Comments

The Department seeks public comment on FMR levels for specific areas. Comments on FMR levels must include sufficient information (including local data and a full description of the methodology used) to justify any proposed changes. Changes may be proposed in all or any of the unit sizes on the schedule. Recommendations and supporting data must reflect the rent levels that exist within the entire market area (Metropolitan Statistical Area, Primary Metropolitan Statistical Area, or nonmetropolitan county).

PHAs that plan to use the RDD survey technique may obtain a copy of the "PHA Guide to Conducting a Fair Market Rent (FMR) Telephone Survey" by calling HUD USER on 1-800-245-2691. This package contains information on: (1) How to decide whether to conduct a rent survey; (2) selecting a contractor; and (3) monitoring the contract. In addition, there are example copies of a request for bids letter and a contract package, the survey questionnaire and interviewer training manual, and a detailed explanation of the methodology. After a contract is awarded, these surveys can normally be completed within two to three months. The hardware and the timing of staff utilization require that these surveys be conducted by contractors staffed with professional statisticians experienced in this field.

Well-constructed RDD surveys are the preferred method, however, they are not mandated where not cost effective or where alternative surveys with comparable reliability are available and have been determined to be representative of prevailing rent levels in the FMR area. The survey samples must be representative of rental housing stock of the entire FMR area. Preferably, samples should be randomly drawn. If this is not a feasible alternative, care should be taken to ensure that the selected samples is not biased toward units of a particular type, age or geographic location. The decennial Census should be used as a starting point guide and as a means of verification for determining whether non-randomly drawn samples are representative of the FMR area rental housing stock.

Local rental housing surveys must show the 45th percentile gross rent (rent including the cost of utilities) and the actual distribution (or distributions if more than one bedroom size is surveyed) of the surveyed units rank ordered by gross rent. An explanation of how contract rents were converted to gross rents needs to be included. The surveys must exclude units built within two years prior to the survey date and samples must not be drawn solely from vacant units. Since the FMR standard data base uses only standard quality units and units occupied by recent movers, both of which are difficult to identify and survey, the Department will accept surveys of all units and apply an appropriate adjustment.

Commenters must specify the date the rent data were collected so that the Department can apply a trending factor to update the estimate to April 1, 1993. Survey data that are trended to the April

1, 1993 "as of date" of the FMRs must include information on the date the survey was conducted, the amount of the trending factor and the source of the trending data. The Department will evaluate all information provided with the comments before making a final decision on the trending adjustment.

Rent surveys that cover only two-bedroom units are acceptable if rent proposals for other size units are consistent with established HUD differentials by bedroom size, or if other pertinent data are supplied to support the proposals for other size units. When three- and four- bedroom units are surveyed, the following procedure must be used to determine appropriate FMR proposals: (1) Determine the 45th percentile rents for the three- and four-bedroom units surveyed, (2) multiply the 45th percentile three-bedroom rent by 1.087 to determine the three-bedroom FMR, and (3) multiply the four-bedroom rent by 1.077 to determine the four-bedroom FMR. The use of these factors will produce the same upward adjustments in the rent differentials by bedroom size as those applied to the rent differentials for three- and four-bedroom units in the HUD methodology.

VI. Other Matters

A Finding of No Significant Impact with respect to the environment required by the National Environmental Policy Act (42 U.S.C. 4321-4374) is unnecessary, since the statutorily required establishment and review of fair market rents is categorically excluded from the Department's regulations implementing the National Environment Policy Act at 24 CFR 50.20(1).

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this document before publication and by approving it certifies that the Notice does not have a significant economic impact on a substantial number of small entities, because FMRs reflect the rents for similar quality units in the area. Therefore, FMRs do not change the rent from that which would be charged if the unit were not in the Section 8 program.

The General Counsel, as the Designated Official under Executive Order No. 12606, The Family, has determined that this proposal would not have a significant impact on family formation, maintenance, or well-being. The proposal would amend Fair Market Rent Schedules for various Section 8 assisted housing programs, and does not affect the amount of rent a family receiving rental assistance pays, which is based on a percentage of the family's income.

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12611, Federalism, has determined that this proposal would not involve the preemption of State law by Federal statute or regulation and would not have Federalism implications. The Fair Market Rent schedules do not have any substantial direct impact on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibility among the various levels of government.

The Catalog of Federal Domestic Assistance program number is 14.158, Lower-Income Housing Assistance Program (Section 8).

Accordingly, the Fair Market Rent Schedules, which will not be codified in the Code of Federal Regulations, are proposed to be amended as follows:

Dated: April 23, 1992.

Frank Keating,
Acting Secretary.

Section 8 Fair Market Rent Schedules for Use in the Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program, and Housing Voucher Program Schedules B & D—General Explanatory Notes

1. Geographic coverage

a. FMRs for the Section 8 Certificate program (Schedule B) are established for all Metropolitan Statistical Areas (MSAs), Primary Metropolitan Statistical Areas (PMSAs), nonmetropolitan counties, and county equivalents in the United States, District of Columbia, Puerto Rico, the Virgin Islands, and the Pacific Islands. FMRs also are established for nonmetropolitan parts of counties in the New England states.

b. FMRs for Manufactured Home spaces in the Section 8 Certificate program (Schedule D) are established for all MSAs, PMSAs, selected nonmetropolitan counties, and the residual nonmetropolitan portion of each State.

c. The current 341 MSAs and PMSAs are those established by the Office of Management and Budget.

2. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedules B and D are listed alphabetically by MSA-PMSA and nonmetropolitan county within each State.

b. The constituent counties (and New England towns and cities) included in each MSA and PMSA are listed immediately following the listings of the

FMR dollar amounts. All the constituent parts of an MSA that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

e. The FMRs are listed by dollar amount on the first line beginning with the FMR area name.

BILLING CODE 4210-32-M

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

A L A B A M A

METROPOLITAN STATISTICAL AREAS										Counties of MSA/PMSA within STATE									
EFF	1 BR	2 BR	3 BR	4 BR	EFF	1 BR	2 BR	3 BR	4 BR	EFF	1 BR	2 BR	3 BR	4 BR					
Anniston, AL MSA.....	258	312	368	462	517	Calhoun													
Birmingham, AL MSA.....	299	365	428	535	599	Blount, Jefferson, St Clair, Shelby, Walker													
Columbus, GA-AL MSA.....	266	320	380	476	536	Russell													
Decatur, AL MSA.....	263	319	378	472	530	Lawrence, Morgan													
Dothan, AL MSA.....	301	365	429	537	601	Dale, Houston													
Florence, AL MSA.....	271	332	392	488	545	Colbert, Lauderdale													
Gadsden, AL MSA.....	235	288	341	426	477	Etowah													
Huntsville, AL MSA.....	304	368	432	542	608	Madison													
Mobile, AL MSA.....	313	380	447	560	629	Baldwin, Mobile													
Montgomery, AL MSA.....	276	338	397	498	558	Autauga, Elmore, Montgomery													
Tuscaloosa, AL MSA.....	291	353	417	521	585	Tuscaloosa													
NONMETROPOLITAN COUNTIES										NONMETROPOLITAN COUNTIES									
Barbour.....	217	263	311	389	436	Bibb.....				210	257	304	379	423					
Bullock.....	221	268	316	397	444	Butler.....				225	273	322	404	452					
Chambers.....	215	261	308	386	431	Cherokee.....				215	261	308	386	431					
Chilton.....	210	257	304	379	423	Choctaw.....				234	287	340	425	475					
Clarke.....	234	287	340	425	475	Clay.....				215	261	308	386	431					
Cleburne.....	215	261	308	386	431	Coffee.....				285	344	405	508	568					
Concuh.....	234	287	340	425	475	Coosa.....				215	261	308	386	431					
Coultion.....	217	263	311	389	436	Crenshaw.....				221	268	316	397	444					
Cullman.....	262	318	377	471	528	Dallas.....				234	287	340	425	475					
De Kalb.....	249	301	353	441	497	Escambia.....				199	245	285	357	400					
Fayette.....	210	257	304	379	423	Franklin.....				210	256	301	377	421					
Geneva.....	217	263	311	389	436	Greene.....				210	257	304	379	423					
Hale.....	210	257	304	379	423	Henry.....				217	263	311	389	436					
Jackson.....	249	301	353	441	497	Lamar.....				210	257	304	379	423					
Lee.....	268	326	386	483	541	Limestone.....				222	270	319	400	448					
Lowndes.....	221	268	316	397	444	Macon.....				234	286	339	422	473					
Marengo.....	234	287	340	425	475	Marion.....				210	256	301	377	421					
Marshall.....	230	280	330	410	460	Monroe.....				234	287	340	425	475					
Perry.....	234	287	340	425	475	Pickens.....				210	257	304	379	423					
Pike.....	234	286	339	422	473	Randolph.....				215	261	308	386	431					
Sumter.....	234	287	340	425	475	Talladega.....				215	261	308	386	431					
Tallapoosa.....	215	261	308	386	431	Washington.....				234	287	340	425	475					
Wilcox.....	234	287	340	425	475	Winston.....				210	256	301	377	421					

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

For example:
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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

A L A S K A

PAGE 2

METROPOLITAN STATISTICAL AREAS

ANCHORAGE, AK MSA	EFF 1	BR 2	BR 3	BR 4	BR	COUNTIES OF MSA/PMSA WITHIN STATE
ANCHORAGE, AK MSA	459	558	656	820	918	ANCHORAGE

NONMETROPOLITAN COUNTIES	EFF 1	BR 2	BR 3	BR 4	BR
Aleutian I.	495	601	707	885	992
Bristol Bay	495	601	707	885	992
Fairbanks No. Star	470	571	695	869	973
Juneau	572	695	890	1057	1184
Ketchikan Gateway	600	728	857	1073	1200
Kodiak Island	665	806	949	1187	1330
Nome	495	601	707	885	992
Pr Wales-Outer Ket	495	601	707	885	992
Skagway-Yukutt-Angoon	495	601	707	885	992
Valdez-Cordova	625	758	893	1116	1250
Wrangellpetersburg	556	675	794	993	1111

A R I Z O N A

METROPOLITAN STATISTICAL AREAS

PHOENIX, AZ MSA	EFF 1	BR 2	BR 3	BR 4	BR	COUNTIES OF MSA/PMSA WITHIN STATE
PHOENIX, AZ MSA	354	429	505	631	707	MARICOPA
TUCSON, AZ MSA	326	396	466	583	652	PIMA
YUMA, AZ MSA	397	482	570	712	798	YUMA

NONMETROPOLITAN COUNTIES	EFF 1	BR 2	BR 3	BR 4	BR
Apache	308	375	442	553	620
Coconino	393	476	561	703	788
Graham	314	384	450	565	633
Lapaz	398	484	571	713	800
Nauvajo	308	375	442	553	620
Santa Cruz	314	384	450	565	633

A R K A N S A S

METROPOLITAN STATISTICAL AREAS

FAYETTEVILLE-SPRINGDALE, AR MSA	EFF 1	BR 2	BR 3	BR 4	BR	COUNTIES OF MSA/PMSA WITHIN STATE
FAYETTEVILLE-SPRINGDALE, AR MSA	284	344	406	506	568	WASHINGTON
FORT SMITH, AR-OK MSA	273	333	393	494	553	CRAWFORD, SEBASTIAN
LITTLE ROCK-NORTH LITTLE ROCK, AR MSA	327	397	467	587	657	FAULKNER, LONOKE, PULASKI, SALINE
MEMPHIS, TN-AR-MS MSA	316	383	451	562	629	CRITTENDEN
PINE BLUFF, AR MSA	270	330	390	490	547	JEFFERSON
TEXARKANA, TX-TEXARKANA, AR MSA	271	329	389	489	545	MILLER

NONMETROPOLITAN COUNTIES	EFF 1	BR 2	BR 3	BR 4	BR
Apache	314	384	450	565	633
Coconino	393	476	561	703	788
Graham	314	384	450	565	633
Lapaz	398	484	571	713	800
Nauvajo	308	375	442	553	620
Santa Cruz	314	384	450	565	633

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

A R K A N S A S continued

NONMETROPOLITAN COUNTIES	EFF 1	BR 2	BR 3	BR 4	BR
Arkansas.....	227	275	325	407	457
Baxter.....	257	313	371	463	521
Boone.....	257	313	371	463	521
Calhoun.....	218	266	312	393	438
Chicot.....	217	261	309	387	435
Clay.....	243	295	346	434	487
Cleveland.....	224	272	321	402	450
Conway.....	223	270	320	401	447
Cross.....	228	281	330	408	457
DeSha.....	217	261	309	387	435
Franklin.....	201	245	289	361	404
Garland.....	237	291	341	427	480
Greene.....	243	295	346	434	487
Holston.....	237	291	341	427	480
Independence.....	253	308	364	455	508
Jackson.....	253	308	364	455	508
Lafayette.....	222	266	316	398	445
Lawrence.....	228	281	330	408	457
Little River.....	222	266	316	398	445
Madison.....	257	313	371	463	521
Mississippi.....	261	320	376	470	529
Montgomery.....	237	291	341	427	480
Newton.....	257	313	371	463	521
Perry.....	223	270	320	401	447
Pike.....	237	291	341	427	480
Polk.....	242	293	344	430	484
Prairie.....	194	236	281	350	392
St. Francis.....	228	281	330	408	457
Searcy.....	257	313	371	463	521
Sharp.....	253	308	364	455	508
Union.....	218	266	312	393	438
Van Buren.....	253	308	364	455	508
Yell.....	223	270	320	401	447

NONMETROPOLITAN COUNTIES

Ashley.....	217	261	309	387	435
Benton.....	266	324	378	466	521
Bradley.....	217	261	309	387	435
Carroll.....	257	313	371	463	521
Clark.....	237	291	341	427	480
Cleburne.....	253	308	364	455	508
Columbia.....	218	266	312	393	438
Craighead.....	285	344	406	506	570
Dallas.....	218	266	312	393	438
Drew.....	240	291	343	461	482
Fulton.....	253	308	364	455	508
Grant.....	224	272	321	402	450
Hempstead.....	222	266	316	398	445
Howard.....	222	266	316	398	445
Izard.....	253	308	364	455	508
Johnson.....	223	270	320	401	447
Lawrence.....	243	295	346	434	487
Lincoln.....	217	261	309	387	435
Logan.....	201	245	289	361	404
Marion.....	257	313	371	463	521
Monroe.....	194	236	281	350	392
Nevada.....	222	266	316	398	445
Osage.....	218	266	316	398	445
Quinn.....	228	281	330	408	457
Phillips.....	243	295	346	434	487
Poinsett.....	223	270	320	401	447
Polk.....	243	295	346	434	487
Randolph.....	201	245	289	361	404
Scott.....	222	266	316	398	445
Sevier.....	253	308	364	455	508
Stone.....	253	308	364	455	508
Van Buren.....	253	308	364	455	508
Woodruff.....	253	308	364	455	508

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

CALIFORNIA

PAGE 4

METROPOLITAN STATISTICAL AREAS

METROPOLITAN STATISTICAL AREAS						
	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Anaheim-Santa Ana, CA PMSA.....	618	751	883	1104	1236	Orange
Bakersfield, CA MSA.....	432	525	618	772	866	Kern
Chico, CA MSA.....	379	461	543	678	760	Butte
Fresno, CA MSA.....	394	479	565	705	791	Fresno
Los Angeles-Long Beach, CA PMSA.....	579	704	829	1036	1161	Los Angeles
Merced, CA MSA.....	371	451	531	684	776	Merced
Modesto, CA MSA.....	413	503	595	744	832	Stanislaus
Oakland, CA PMSA.....	581	706	832	1040	1165	Alameda, Contra Costa
Oxnard-Ventura, CA PMSA.....	554	674	793	991	1111	Ventura
Redding, CA MSA.....	394	479	565	705	791	Shasta
Riverside-San Bernardino, CA PMSA.....	470	555	647	838	943	Riverside, San Bernardino
Sacramento, CA MSA.....	417	497	595	764	866	El Dorado, Placer, Sacramento, Yolo
Salinas-Seaside-Monterey, CA MSA.....	473	575	675	847	948	Monterey
San Diego, CA MSA.....	503	618	725	908	1016	San Diego
San Francisco, CA PMSA.....	697	845	1002	1247	1397	Marin, San Francisco, San Mateo
San Jose, CA PMSA.....	643	780	920	1149	1288	Santa Clara
Santa Barbara-Santa Maria-Lompoc, CA MSA.....	534	649	765	959	1072	Santa Barbara
Santa Cruz, CA PMSA.....	623	756	893	1116	1249	Santa Cruz
Santa Rosa-Petaluma, CA PMSA.....	548	665	785	983	1100	Sonoma
Stockton, CA MSA.....	401	487	573	716	802	San Joaquin
Vallejo-fairfield-Napa, CA PMSA.....	508	582	685	889	1066	Napa, Solano
Visalia-Tulare-Porterville, CA MSA.....	367	447	527	764	836	Tulare
Yuba City, CA MSA.....	324	396	466	614	689	Sutter, Yuba
NONMETROPOLITAN COUNTIES						EFF 1 BR 2 BR 3 BR 4 BR
Alpine.....	433	526	620	774	868	
Calaveras.....	433	526	620	774	868	
Del Norte.....	395	480	566	706	793	
Humboldt.....	407	495	583	729	819	
Inyo.....	433	526	620	774	868	
Lake.....	395	480	566	706	793	
Madera.....	357	434	510	642	717	
Mendocino.....	414	503	592	740	829	
Mono.....	433	526	620	774	868	
Plumas.....	362	439	516	646	727	
San Luis Obispo.....	490	596	702	878	985	
Shasta.....	362	439	516	646	727	
Trinity.....	395	480	566	706	793	
NONMETROPOLITAN COUNTIES						EFF 1 BR 2 BR 3 BR 4 BR
Anasador.....	433	526	620	774	868	
Colusa.....	326	398	469	590	661	
Glenn.....	326	398	469	590	661	
Imperial.....	410	499	588	735	823	
Kings.....	357	434	510	639	717	
Lassen.....	362	439	516	646	727	
Mariposa.....	433	526	620	774	868	
Modoc.....	362	439	516	646	727	
Nevada.....	485	592	695	869	972	
San Benito.....	404	492	580	736	824	
Sierra.....	485	592	695	869	972	
Tehama.....	362	439	516	646	727	
Tuolumne.....	433	526	620	774	868	

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

C O L O R A D O

METROPOLITAN STATISTICAL AREAS

	EFF 1	BR 2	BR 3	BR 4	BR	Counties of MSA/PMSA within STATE
Boulder-Longmont, CO PMSA.....	421	511	601	752	841	Boulder
Colorado Springs, CO MSA.....	353	428	504	632	708	El Paso
Denver, CO PMSA.....	365	443	522	652	730	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA.....	406	494	581	726	815	Larimer
Greeley, CO MSA.....	352	426	501	630	705	Weld
Pueblo, CO MSA.....	350	424	499	626	702	Pueblo

	EFF 1	BR 2	BR 3	BR 4	BR	Counties of MSA/PMSA within STATE
NONMETROPOLITAN COUNTIES	EFF 1	BR 2	BR 3	BR 4	BR	
Alamosa.....	351	424	500	627	703	Archuleta.....
Baca.....	306	368	428	536	602	Bent.....
Chaffee.....	389	471	555	695	780	Cheyenne.....
Clear Creek.....	389	471	555	695	780	Conejos.....
Costilla.....	351	424	500	627	703	Crowley.....
Custer.....	389	471	555	695	780	Delta.....
Delores.....	351	424	500	627	703	Eagle.....
Elbert.....	299	364	428	536	602	Fremont.....
Garfield.....	441	535	632	790	885	Giipin.....
Grand.....	464	561	661	827	927	Gunnison.....
Hinsdale.....	464	561	661	827	927	Huerfano.....
Jackson.....	464	561	661	827	927	Kiowa.....
Kit Carson.....	299	364	428	536	602	Lake.....
La Plata.....	390	468	552	690	774	Las Animas.....
Lincoln.....	306	368	428	536	602	Logan.....
Mesa.....	441	535	632	790	885	Mineral.....
Moffat.....	441	535	632	790	885	Montezuma.....
Montrose.....	464	561	661	827	927	Morgan.....
Otero.....	306	368	428	536	602	Ouray.....
Park.....	389	471	555	695	780	Phillips.....
Pitkin.....	464	561	661	827	927	Provers.....
Rio Blanco.....	441	535	632	790	885	Rio Grande.....
Routt.....	464	561	661	827	927	Saguache.....
San Juan.....	351	424	500	627	703	San Miguel.....
Sedgwick.....	299	364	428	536	602	Summit.....
Teller.....	389	471	555	695	780	Washington.....
Yuma.....	299	364	428	536	602	

For example,
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Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

C O N N E C T I C U T

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METROPOLITAN STATISTICAL AREAS

	EFF	1 BR	2 BR	3 BR	4 BR	
Bridgeport-Milford, CT PMSA.....	510	619	731	912	1024	Components of MSA/PMSA within STATE
Bristol, CT PMSA.....	416	504	594	744	834	Fairfield county towns of Bridgeport, Easton, Fairfield
Danbury, CT PMSA.....	552	673	791	991	1112	Monroe, Shelton, Stratford, Trumbull
Hartford, CT PMSA.....	500	609	713	898	1002	New Haven county towns of Ansonia, Beacon Falls, Derby
						Hartford county towns of Bristol, Burlington
						Litchfield county towns of Plymouth
						Fairfield county towns of Bethel, Brookfield, Danbury
						New Fairfield, Newtown, Redding, Ridgefield, Sherman
						Litchfield county towns of Bridgewater, New Milford
						Hartford county towns of Avon, Bloomfield, Canton
						East Granby, East Hartford, East Windsor, Enfield
						Farmington, Glastonbury, Granby, Hartford, Manchester
						Marlborough, Newington, Rocky Hill, Simsbury
						South Windsor, Suffield, West Hartford, Wethersfield
						Windsor, Windsor Locks
						Litchfield county towns of Barkhamsted, New Hartford
						Middlesex county towns of East Haddam
						New London county towns of Colchester
						Tolland county towns of Andover, Bolton, Columbia
						Coventry, Ellington, Hebron, Somers, Stafford, Tolland
						Vernon, Willington
Middletown, CT PMSA.....	421	511	604	756	847	Middlesex county towns of Cromwell, Durham, East Hampton
New Britain, CT PMSA.....	445	541	637	797	894	Haddam, Middlefield, Middletown, Portland
New Haven-Meriden, CT MSA.....	539	655	773	968	1082	Hartford county towns of Berlin, New Britain, Plainville
						Southington
						Middlesex county towns of Clinton, Killingworth
						New Haven county towns of Bethany, Branford, Cheshire
						East Haven, Guilford, Hamden, Madison, Meriden
						New Haven, North Branford, North Haven, Orange
						Wallington, West Haven, Woodbridge
						New London county towns of Bozrah, East Lyme, Franklin
						Griswold, Groton, Ledyard, Lisbon, Montville, New London
						North Stonington, Norwich, Old Lyme, Preston, Salem
						Sprague, Stonington, Waterford
						Windham county towns of Canterbury
Norwalk, CT PMSA.....	588	714	842	1052	1180	Fairfield county towns of Norwalk, Weston, Westport
Stamford, CT PMSA.....	709	862	1015	1270	1421	Wilton
Waterbury, CT MSA.....	434	526	620	775	869	Fairfield county towns of Darien, Greenwich, New Canaan
						Stamford
						Litchfield county towns of Bethlehem, Thomaston
						Watertown, Woodbury
						New Haven county towns of Middlebury, Naugatuck, Prospect
						Southbury, Waterbury, Wolcott

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

CONNECTICUT continued

NONMETROPOLITAN COUNTIES					Towns within non metropolitan counties				
EFF	1 BR	2 BR	3 BR	4 BR					
Hartford.....	413	501	591	740	829	Hartland			
Litchfield.....	458	556	653	819	917	Canaan, Colebrook, Cornwall, Goshen, Harwinton, Kent			
						Litchfield, Morris, Norfolk, North Canaan, Roxbury			
						Salisbury, Sharon, Torrington, Warren, Washington			
Middlesex.....	513	622	732	915	1026	Winchester			
New London.....	365	445	525	658	738	Chester, Deep River, Essex, Old Saybrook, Westbrook			
Tolland.....	496	603	708	888	994	Lebanon, Lyme, Voluntown			
Windham.....	437	532	627	784	880	Mansfield, Union			
						Ashford, Brooklyn, Chaplin, Eastford, Hampton, Killingly			
						Plainfield, Pomfret, Putnam, Scotland, Sterling			
						Thompson, Windham, Woodstock			

DELAWARE

METROPOLITAN STATISTICAL AREAS					Counties of MSA/PMSA within STATE				
EFF	1 BR	2 BR	3 BR	4 BR					
Wilmington, DE-NJ-MD PMSA.....	454	542	646	808	961	New Castle			
NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR				
Kent.....	385	467	550	687	770	Sussex.....	385	467	550 687 770

DISTRICT OF COLUMBIA

METROPOLITAN STATISTICAL AREAS					Counties of MSA/PMSA within STATE				
EFF	1 BR	2 BR	3 BR	4 BR					
Washington, DC-MD-VA MSA.....	597	725	854	1067	1195	Washington			

FLORIDA

METROPOLITAN STATISTICAL AREAS					Counties of MSA/PMSA within STATE				
EFF	1 BR	2 BR	3 BR	4 BR					
Bradenton, FL MSA.....	380	463	545	682	764	Manatee			
Daytona Beach, FL MSA.....	369	447	526	658	738	Volusia			
Fort Lauderdale-Hollywood-Pompano Beach, FL PMSA	472	573	674	843	944	Broward			
Fort Myers-Cape Coral, FL MSA.....	391	474	559	701	786	Lee			
Fort Pierce, FL MSA.....	391	474	559	701	786	Martin, St Lucie			
Fort Walton Beach, FL MSA.....	261	316	373	467	523	Okaloosa			
Gainesville, FL MSA.....	331	403	473	594	663	Alachua, Bradford			
Jacksonville, FL MSA.....	346	420	497	620	696	Clay, Duval, Nassau, St Johns			
Lakeland-Winter Haven, FL MSA.....	311	380	448	560	627	Polk			
Melbourne-Titusville-Palm Bay, FL MSA.....	357	429	506	634	711	Brevard			
Miami-Hialeah, FL PMSA.....	458	556	654	818	916	Dade			
Naples, FL MSA.....	402	488	574	719	805	Collier			

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

F L O R I D A continued

METROPOLITAN STATISTICAL AREAS

	EFF 1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Ocala, FL MSA.....	311	402	445	556	622 Marion
Orlando, FL MSA.....	382	466	548	667	746 Orange, Osceola, Seminole
Panama City, FL MSA.....	276	338	398	499	557 Bay
Pensacola, FL MSA.....	309	378	445	556	622 Escambia, Santa Rosa
Sarasota, FL MSA.....	412	501	591	737	828 Sarasota
Tallahassee, FL MSA.....	327	396	467	595	654 Gadsden, Leon
Tampa-St. Petersburg-Clearwater, FL MSA.....	373	453	534	665	747 Hernando, Hillsborough, Pasco, Pinellas
West Palm Beach-Boca Raton-DeLray Beach, FL MSA.....	400	477	556	680	749 Palm Beach

NONMETROPOLITAN COUNTIES

	EFF 1 BR	2 BR	3 BR	4 BR	Counties
Baker.....	252	304	357	448	504 Calhoun.....
Charlotte.....	377	460	540	674	757 Citrus.....
Columbia.....	258	313	368	462	517 De Soto.....
Dixie.....	229	282	332	414	466 Flagler.....
Franklin.....	213	258	303	380	426 Gilchrist.....
Glades.....	377	460	540	674	757 Gulf.....
Hamilton.....	229	282	332	414	466 Hardee.....
Hendry.....	377	460	540	674	757 Highlands.....
Holmes.....	248	299	353	443	496 Indian River.....
Jackson.....	221	267	315	396	444 Jefferson.....
Lafayette.....	229	282	332	414	466 Lake.....
Levy.....	288	350	411	515	577 Liberty.....
Madison.....	229	282	332	414	466 Monroe.....
Okeechobee.....	269	329	387	485	543 Putnam.....
Sumter.....	288	348	411	515	577 Suwannee.....
Taylor.....	229	282	332	414	466 Union.....
Wakulla.....	273	332	390	488	548 Walton.....
Washington.....	248	301	354	445	497

G E O R G I A

METROPOLITAN STATISTICAL AREAS

	EFF 1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Albany, GA MSA.....	287	346	410	512	574 Dougherty, Lee
Athens, GA MSA.....	296	360	424	531	595 Clarke, Jackson, Madison, Oconee
Atlanta, GA MSA.....	405	492	580	725	813 Barrow, Butts, Cherokee, Clayton, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry
Augusta, GA-SC MSA.....	301	365	424	531	595 Newton, Paulding, Rockdale, Spalding, Walton
Chattanooga, TN-GA MSA.....	320	390	460	575	647 Columbia, McDuffie, Richmond
Columbus, GA-AL MSA.....	266	320	380	476	536 Catoosa, Dade, Walker

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

For example,
041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

G E O R G I A continued

METROPOLITAN STATISTICAL AREAS

EFF 1 BR 2 BR 3 BR 4 BR Counties of MSA/PMSA within STATE

Macon-Warner Robins, GA MSA..... 297 365 429 536 597 Bibb, Houston, Jones, Peach
Savannah, GA MSA..... 301 368 432 540 606 Chatham, Effingham

NONMETROPOLITAN COUNTIES EFF 1 BR 2 BR 3 BR 4 BR

NONMETROPOLITAN COUNTIES EFF 1 BR 2 BR 3 BR 4 BR

Appling..... 247 299 353 441 495
Bacon..... 230 280 330 413 465
Baldwin..... 233 286 336 420 471
Barton..... 250 304 358 448 504
Berrien..... 245 296 348 437 489

Atkinson..... 230 280 330 413 465
Baker..... 238 293 340 427 476
Banks..... 221 269 317 397 445
Ben Hill..... 245 296 348 437 489
Bleckley..... 238 293 340 427 471

Brantley..... 230 280 330 413 465
Bryan..... 285 330 390 488 548
Burke..... 234 287 337 423 473
Camden..... 271 330 390 488 548
Carroll..... 285 343 404 506 565

Brooks..... 245 296 348 437 489
Bulloch..... 247 299 353 441 495
Calhoun..... 238 293 340 427 476
Candler..... 247 299 353 441 495
Charlton..... 238 292 340 419 465

Chattooga..... 250 304 358 448 504
Clinch..... 230 280 330 413 465
Colquitt..... 236 290 340 426 476
Crawford..... 199 244 286 357 399
Dawson..... 224 276 322 400 445

Clay..... 238 293 340 427 476
Coffee..... 230 280 330 413 465
Cook..... 245 296 348 437 489
Crisp..... 236 290 340 426 476
Decatur..... 238 293 340 427 476

Dodge..... 238 293 340 427 476
Early..... 238 293 340 427 476
Elbert..... 226 275 324 407 456
Evans..... 247 299 353 441 495
Floyd..... 250 304 358 448 504

Dooley..... 238 293 340 427 476
Echols..... 245 296 348 437 489
Emanuel..... 234 287 337 423 473
Fannin..... 266 324 381 477 536
Franklin..... 221 269 317 397 445

Gilmer..... 266 324 381 477 536
Glynn..... 271 330 390 488 548
Grady..... 238 293 340 427 476
Habersham..... 249 301 356 445 499
Hancock..... 238 293 340 427 471

Glascok..... 234 287 337 423 473
Gordon..... 250 304 358 448 504
Greene..... 224 271 320 401 449
Hall..... 319 384 457 570 643
Haralson..... 250 304 358 448 504

Harris..... 244 296 343 428 476
Heard..... 263 320 378 473 530
Jasper..... 238 293 340 427 471
Jefferson..... 234 287 337 423 473
Johnson..... 238 293 340 427 471

Hart..... 221 269 317 397 445
Irwin..... 245 296 348 437 489
Jeff Davis..... 247 299 353 441 495
Jenkins..... 234 287 337 423 473
Lamar..... 220 266 315 395 441

Lanier..... 245 296 348 437 489
Liberty..... 271 330 390 488 548
Long..... 271 330 390 488 548
Lumpkin..... 224 276 322 400 445
Macon..... 238 293 340 427 476

Laurens..... 233 286 336 420 471
Lincoln..... 234 287 337 423 473
Lowndes..... 245 296 348 437 489
McIntosh..... 271 330 390 488 548
Marion..... 244 296 343 428 476

Meriwether..... 263 320 378 473 530

Miller..... 238 293 340 427 476

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

G E O R G I A continued

PAGE . 10

NONMETROPOLITAN COUNTIES				
	EFF	1 BR	2 BR	3 BR 4 BR
Mitchell.....	238	293	340	427 476
Montgomery.....	244	297	348	430 476
Murray.....	266	324	381	477 536
Pickens.....	266	324	381	477 536
Pike.....	220	266	315	395 441
Pulaski.....	238	293	340	427 471
Quitman.....	236	290	340	426 476
Randolph.....	238	293	340	427 476
Scriven.....	244	297	348	430 476
Stephens.....	260	319	374	469 522
Sumter.....	265	325	384	479 539
Tallapoosa.....	234	287	337	423 473
Taylor.....	238	293	340	427 476
Terrell.....	238	293	340	427 476
Tift.....	245	296	348	437 489
Towns.....	224	276	322	400 445
Troup.....	269	325	382	476 532
Twiggs.....	199	244	286	357 399
Upson.....	220	266	315	395 441
Warren.....	234	287	337	423 473
Wayne.....	247	299	353	441 495
Wheeler.....	238	293	340	427 471
Whitfield.....	266	324	381	477 536
Wilkes.....	234	287	337	423 473
Worth.....	238	293	340	427 476

NONMETROPOLITAN COUNTIES				
	EFF	1 BR	2 BR	3 BR 4 BR
Monroe.....	199	244	286	357 399
Morgan.....	224	271	320	401 449
Oglethorpe.....	224	271	320	401 449
Pierce.....	230	280	330	413 465
Polk.....	250	306	358	448 504
Putnam.....	238	293	340	427 471
Rabun.....	224	276	322	400 445
Schley.....	244	296	343	428 476
Seminole.....	238	293	340	427 476
Stewart.....	244	296	343	428 476
Talbot.....	236	290	340	426 476
Tattnall.....	247	299	353	441 495
Telfair.....	238	293	340	427 471
Thomas.....	277	337	397	499 558
Toombs.....	247	299	353	441 495
Treutlen.....	238	293	340	427 471
Turner.....	245	296	348	437 489
Union.....	224	276	322	400 445
Ware.....	230	280	330	413 465
Washington.....	238	293	340	427 471
Webster.....	244	296	343	428 476
White.....	224	276	322	400 445
Wilcox.....	238	293	340	427 471
Wilkinson.....	238	293	340	427 471

METROPOLITAN STATISTICAL AREAS

HAWAII				
	EFF	1 BR	2 BR	3 BR 4 BR
Honolulu, HI MSA.....	643	782	920	1158 1297
COUNTIES OF MSA/PMSA WITHIN STATE				
Honolulu				
NONMETROPOLITAN COUNTIES				
	EFF	1 BR	2 BR	3 BR 4 BR
Hawaii.....	505	612	720	903 1010
Mauai.....	596	724	852	1066 1193

NONMETROPOLITAN COUNTIES				
	EFF	1 BR	2 BR	3 BR 4 BR
Kauai.....	629	767	901	1127 1262

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

IDAHO

METROPOLITAN STATISTICAL AREAS

EFF 1 BR 2 BR 3 BR 4 BR Counties of MSA/PMSA within STATE

Boise City, ID MSA..... 414 503 594 742 832 Ada

NONMETROPOLITAN COUNTIES

EFF 1 BR 2 BR 3 BR 4 BR

Adams..... 321 392 462 576 647

Bear Lake..... 334 405 478 600 672

Bingham..... 336 410 478 600 672

Boise..... 321 392 462 576 647

Bonneville..... 361 437 517 646 724

Butte..... 361 437 517 646 724

Canyon..... 321 392 462 576 647

Cassia..... 342 415 490 612 688

Clearwater..... 334 405 478 600 672

Elmore..... 321 392 462 576 647

Fremont..... 361 437 517 646 724

Gooding..... 342 415 490 612 688

Jefferson..... 361 437 517 646 724

Kootenai..... 334 405 478 600 672

Lemhi..... 361 437 517 646 724

Lincoln..... 342 415 490 612 688

Minidoka..... 342 415 490 612 688

Oneida..... 334 405 478 600 672

Payette..... 321 392 462 576 647

Shoshone..... 334 405 478 600 672

Twin Falls..... 342 415 490 612 688

Washington..... 321 392 462 576 647

ILLINOIS

METROPOLITAN STATISTICAL AREAS

EFF 1 BR 2 BR 3 BR 4 BR Counties of MSA/PMSA within STATE

Aurora-Elgin, IL PMSA..... 490 598 705 880 989

Bloomington-Normal, IL MSA..... 343 419 491 614 688

Champaign-Urbana-Rantoul, IL MSA..... 332 403 476 598 668

Chicago, IL PMSA..... 480 591 692 870 974

Davenport-Rock Island-Moline, IA-IL MSA..... 368 448 528 659 738

Decatur, IL MSA..... 332 403 476 598 668

Joliet, IL PMSA..... 495 603 713 891 1001

Kankakee, IL MSA..... 329 399 471 590 662

Lake County, IL PMSA..... 509 618 725 912 1021

Peoria, IL MSA..... 387 469 552 692 774

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Peoria, IL MSA..... 387 469 552 692 774

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

ILLINOIS Continued

METROPOLITAN STATISTICAL AREAS

COUNTY	COUNTIES OF MSA/PMSA WITHIN STATE			
	EFF 1 BR	2 BR	3 BR	4 BR
Rockford, IL MSA	350	427	502	627
St. Louis, MO-IL MSA	351	426	503	628
Springfield, IL MSA	351	428	503	629
NONMETROPOLITAN COUNTIES				
Adams	259	314	370	454
Bond	283	347	408	511
Bureau	315	385	454	566
Carroll	292	356	421	526
Christian	300	363	428	536
Clay	267	324	384	479
Cranford	267	324	384	479
De Kalb	283	347	408	511
Douglas	283	347	408	511
Edwards	259	314	370	454
Fayette	267	324	384	479
Franklin	303	366	433	544
Gallatin	239	290	344	429
Hamilton	239	290	344	429
Hardin	239	290	344	429
Irroquois	297	360	425	533
Jasper	267	324	384	479
Jo Daviess	292	356	421	526
Knox	308	374	437	550
Lawrence	267	324	384	479
Livingston	297	360	425	533
McDonough	283	346	402	502
Marion	267	324	384	479
Mason	297	360	425	533
McGuire	277	337	396	498
Morgan	297	360	425	533
Ogle	292	356	421	526
Platt	283	347	408	511
Pope	239	290	344	429
Putham	315	385	454	566
Richland	267	324	384	479
Schuyler	259	314	370	454
Shelby	300	363	428	536
Stephenson	292	356	421	526
Vermilion	297	360	425	533
NONMETROPOLITAN COUNTIES				
Alexander	239	290	344	429
Brown	259	314	370	454
Calhoun	289	353	417	519
Cass	297	357	423	533
Clark	283	347	408	511
Coles	283	347	408	511
Cumberland	283	347	408	511
De Witt	283	347	408	511
Edgar	283	347	408	511
Effingham	267	324	384	479
Ford	297	360	425	533
Fulton	315	385	454	566
Greene	289	353	417	519
Hancock	277	337	396	498
Henderson	277	337	396	498
Jackson	303	366	433	544
Jefferson	291	354	422	526
Johnson	239	290	344	429
La Salle	358	434	512	642
Lee	358	434	512	642
Logan	297	360	425	533
Macoupin	300	363	428	536
Marshall	315	385	454	566
Massac	239	290	344	429
Montgomery	300	363	428	536
Moultrie	300	363	428	536
Perry	283	347	408	511
Pike	259	314	370	454
Pulaski	239	290	344	429
Randolph	283	347	408	511
Saline	239	290	344	429
Scott	297	357	423	523
Stark	315	385	454	566
Union	239	290	344	429
Wabash	259	314	370	454

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

ILLINOIS continued

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Warren.....	283	346	402	502 559
Wayne.....	259	314	370	464 520
Whiteside.....	358	434	512	642 719

INDIANA

METROPOLITAN STATISTICAL AREAS	EFF 1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Anderson, IN MSA.....	284	346	406	510 573	Madison
Bloomington, IN MSA.....	307	373	440	551 617	Monroe
Cincinnati, OH-KY-IN PMSA.....	342	415	489	611 684	Dearborn
Elkhart-Goshen, IN MSA.....	301	364	429	538 603	Elkhart
Evansville-Henderson, IN-KY MSA.....	315	376	441	553 619	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA.....	315	381	444	557 619	Allen, De Kalb, Whitley
Gary-Hammond, IN PMSA.....	392	476	561	702 787	Lake, Porter
Indianapolis, IN MSA.....	355	432	508	635 711	Boone, Hamilton, Hancock, Hendricks, Johnson, Marion
Kokomo, IN MSA.....	312	382	447	561 629	Morgan, Shelby
Lafayette-West Lafayette, IN MSA.....	331	403	474	592 665	Howard, Tipton
Louisville, KY-IN MSA.....	287	347	408	508 570	Clark, Floyd, Harrison
Muncie, IN MSA.....	272	328	387	480 538	Delaware
South Bend-Mishawaka, IN MSA.....	309	374	437	543 605	St Joseph
Terre Haute, IN MSA.....	280	342	399	497 551	Clay, Vigo

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Adams.....	276	336	391	490 549
Benton.....	265	323	381	477 534
Brown.....	312	381	448	563 631
Cass.....	274	335	394	493 552
Crawford.....	228	278	327	412 463
Decatur.....	312	381	448	563 631
Fayette.....	269	325	381	477 534
Franklin.....	269	325	381	477 534
Gibson.....	299	362	426	534 599
Greene.....	258	312	371	465 519
Huntington.....	273	334	391	490 549
Jasper.....	276	337	396	497 556
Jefferson.....	299	362	426	534 599
Knox.....	265	319	371	465 519
Lagrange.....	284	344	405	508 571
Lawrence.....	287	350	413	517 578

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

I N D I A N A continued

NONMETROPOLITAN COUNTIES					NONMETROPOLITAN COUNTIES						
EFF	1 BR	2 BR	3 BR	4 BR	EFF	1 BR	2 BR	3 BR	4 BR		
Martin.....	258	312	371	465	519	Miami.....	274	335	394	493	552
Montgomery.....	265	323	381	477	534	Newton.....	276	337	396	497	556
Noble.....	283	344	405	508	571	Ohio.....	299	362	426	534	599
Orange.....	228	278	327	412	463	Owen.....	304	370	434	544	610
Parke.....	265	323	381	477	534	Perry.....	228	278	327	412	463
Pike.....	299	362	426	534	599	Pulaski.....	276	337	396	497	556
Putnam.....	300	365	429	536	600	Randolph.....	251	305	359	448	504
Ripley.....	299	362	426	534	599	Rush.....	265	323	381	477	534
Scott.....	284	345	408	510	573	Spencer.....	228	278	327	412	463
Starke.....	276	337	396	497	556	Steuben.....	283	344	405	508	571
Sullivan.....	265	323	381	477	534	Switzerland.....	299	362	426	534	599
Union.....	269	325	381	477	534	Vermillion.....	274	334	389	484	537
Wabash.....	257	311	368	463	517	Warren.....	265	323	381	477	534
Washington.....	307	374	440	551	617	Wayne.....	270	326	384	477	534
Wells.....	280	337	392	493	549	White.....	265	323	381	477	534
I O W A											

I O W A

METROPOLITAN STATISTICAL AREAS

METROPOLITAN STATISTICAL AREAS						COUNTIES OF MSA/PMSA WITHIN STATE					
EFF	1 BR	2 BR	3 BR	4 BR							

NONMETROPOLITAN COUNTIES

NONMETROPOLITAN COUNTIES					
EFF	1 BR	2 BR	3 BR	4 BR	
Adair.....	265	324	380	479	534
Allamakee.....	281	341	403	504	565
Audubon.....	282	343	406	506	567
Boone.....	322	390	459	575	645
Buena Vista.....	277	335	396	494	556
Calhoun.....	282	343	406	506	567
Cass.....	290	353	414	519	582
Cerro Gordo.....	279	339	400	499	560
Chickasaw.....	281	341	403	504	565
Clay.....	277	335	396	494	556
Clinton.....	314	380	451	563	632

NONMETROPOLITAN COUNTIES					
EFF	1 BR	2 BR	3 BR	4 BR	
Adams.....	265	324	380	479	534
Appanoose.....	265	324	380	479	534
Benton.....	276	334	394	493	553
Buchanan.....	281	341	403	504	565
Butler.....	281	341	403	504	565
Carroll.....	282	343	406	506	567
Cedar.....	314	380	451	563	632
Cherokee.....	282	343	406	506	567
Clarks.....	265	324	380	479	534
Clayton.....	281	341	403	504	565

Crawford

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

For example,
041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING
I O W A continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Davis.....	265	324	380	479	534	Decatur.....	265	324	380	479	534
Delaware.....	314	380	451	563	632	Des Moines.....	295	360	423	529	594
Dickinson.....	277	335	396	494	556	Emmet.....	277	335	396	494	556
Fayette.....	281	341	403	504	565	Floyd.....	279	339	400	499	560
Franklin.....	279	339	400	499	560	Fremont.....	290	353	414	519	582
Greene.....	282	343	406	506	567	Grundy.....	281	341	403	504	565
Guthrie.....	282	343	406	506	567	Hamilton.....	282	343	406	506	567
Hancock.....	279	339	400	499	560	Hardin.....	293	357	419	525	590
Harrison.....	290	353	414	519	582	Henry.....	295	360	423	529	594
Howard.....	281	341	403	504	565	Humboldt.....	282	343	406	506	567
Ida.....	282	343	406	506	567	Iowa.....	276	334	394	493	553
Jackson.....	314	380	451	563	632	Jasper.....	297	363	426	533	598
Jefferson.....	294	358	420	527	591	Jones.....	276	334	394	493	553
Keokuk.....	277	335	396	494	555	Kossuth.....	279	339	400	499	560
Lee.....	295	360	423	529	594	Louisa.....	295	360	423	529	594
Lucas.....	265	324	380	479	534	Lyon.....	277	335	396	494	556
Madison.....	297	363	426	533	598	Mahaska.....	265	324	380	479	534
Marion.....	297	363	426	533	598	Marshall.....	293	357	419	525	590
Mills.....	290	353	414	519	582	Mitchell.....	279	339	400	499	560
Monona.....	282	343	406	506	567	Monroe.....	265	324	380	479	534
Montgomery.....	290	353	414	519	582	Muscatine.....	295	360	423	529	594
O'Brien.....	277	335	396	494	556	Osceola.....	277	335	396	494	556
Page.....	290	353	414	519	582	Palo Alto.....	277	335	396	494	556
Plymouth.....	282	343	406	506	567	Pocahontas.....	282	343	406	506	567
Poweshiek.....	293	357	419	525	590	Ringgold.....	265	324	380	479	534
Sac.....	282	343	406	506	567	Shelby.....	290	353	414	519	582
Sioux.....	277	335	396	494	556	Story.....	322	390	459	575	645
Tama.....	293	357	419	525	590	Taylor.....	265	324	380	479	534
Union.....	265	324	380	479	534	Van Buren.....	265	324	380	479	534
Wapello.....	314	379	450	561	630	Washington.....	276	334	394	493	553
Wayne.....	265	324	380	479	534	Webster.....	282	343	406	506	567
Winnebago.....	279	339	400	499	560	Winneshiek.....	281	341	403	504	565
Worth.....	279	339	400	499	560	Wright.....	282	343	406	506	567

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

K A N S A S

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METROPOLITAN STATISTICAL AREAS

	EFF	1	BR	2	BR	3	BR	4	BR	Counties of MSA/PMSEA within STATE
Kansas City, MO-KS MSA.....	342	416	489	611	685	Johnson, Leavenworth, Miami, Wyandotte				
Lawrence, KS MSA.....	361	438	516	644	724	Douglas				
Topeka, KS MSA.....	327	398	467	588	656	Shawnee				
Wichita, KS MSA.....	348	423	503	627	698	Butler, Harvey, Sedgwick				

NONMETROPOLITAN COUNTIES

NONMETROPOLITAN COUNTIES						METROPOLITAN COUNTIES					
	EFF	1 BR	2 BR	3 BR	4 BR		EFF	1 BR	2 BR	3 BR	4 BR
Allen.....	224	272	320	400	451	Anderson.....	224	272	320	400	451
Atchison.....	258	313	369	463	519	Barber.....	259	315	372	465	521
Barton.....	259	315	372	465	521	Bourbon.....	224	272	320	400	451
Brown.....	258	313	369	463	519	Chase.....	282	344	406	508	567
Chautauqua.....	224	272	320	400	451	Cherokee.....	237	289	340	426	478
Cheyenne.....	226	275	323	406	455	Clark.....	265	323	380	478	535
Clay.....	282	344	406	508	567	Cloud.....	280	341	401	504	563
Coffey.....	282	344	406	508	567	Comanche.....	259	315	372	465	521
Cowley.....	224	272	320	400	451	Crawford.....	237	289	340	426	478
Decatur.....	226	275	323	406	455	Dickinson.....	282	344	406	508	567
Doniphan.....	258	313	369	463	519	Edwards.....	259	315	372	465	521
Elk.....	224	272	320	400	451	Ellis.....	226	275	323	406	455
Ellisworth.....	280	341	401	504	563	Finney.....	265	323	380	478	535
Ford.....	265	323	380	478	535	Franklin.....	245	297	351	436	490
Geary.....	282	344	406	508	567	Gove.....	226	275	323	406	455
Graham.....	226	275	323	406	455	Grant.....	265	323	380	478	535
Gray.....	265	323	380	478	535	Greeley.....	265	323	380	478	535
Greenwood.....	282	344	406	508	567	Hamilton.....	265	323	380	478	535
Harper.....	259	315	372	465	521	Haskell.....	265	323	380	478	535
Hodgeman.....	265	323	380	478	535	Jackson.....	258	313	369	463	519
Jefferson.....	245	298	352	437	492	Jewell.....	280	341	401	504	563
Kearny.....	265	323	380	478	535	Kingman.....	259	315	372	465	521
Kiowa.....	259	315	372	465	521	Labette.....	237	289	340	426	478
Lane.....	265	323	380	478	535	Lincoln.....	280	341	401	504	563
Linn.....	224	272	320	400	451	Logan.....	226	275	323	406	455
Lyon.....	282	344	406	508	567	Mcpherson.....	298	362	428	535	598
Marion.....	282	344	406	508	567	Marshall.....	282	344	406	508	567
Meade.....	265	323	380	478	535	Mitchell.....	280	341	401	504	563
Montgomery.....	237	289	340	426	478	Morris.....	282	344	406	508	567
Morton.....	265	323	380	478	535	Nemaha.....	258	313	369	463	519
Neosho.....	237	289	340	426	478	Ness.....	265	323	380	478	535
Norton.....	226	275	323	406	455	Osage.....	245	298	352	437	492
Osborne.....	226	275	323	406	455	Ottawa.....	280	341	401	504	563
Pawnee.....	259	315	372	465	521	Phillips.....	226	275	323	406	455

Note: The FMRS for unit sizes larger than 4 BRs are calculated by extrapolation.

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

K A N S A S continued

NONMETROPOLITAN COUNTIES	EFF 1	BR 2	BR 3	BR 4	NONMETROPOLITAN COUNTIES	EFF 1	BR 2	BR 3	BR 4		
Pottawatomie.....	282	344	406	508	567	Pratt.....	259	315	372	465	521
Rawlins.....	226	275	323	406	455	Reno.....	298	362	428	535	598
Republic.....	280	341	401	504	563	Rice.....	298	362	428	535	598
Riley.....	282	344	406	508	567	Rooks.....	226	275	323	406	455
Rush.....	259	315	372	465	521	Russell.....	226	275	323	406	455
Saline.....	280	341	401	504	563	Scott.....	265	323	380	478	535
Seward.....	265	323	380	478	535	Sheridan.....	226	275	323	406	455
Sherman.....	226	275	323	406	455	Smith.....	226	275	323	406	455
Stafford.....	259	315	372	465	521	Stanton.....	265	323	380	478	535
Stevens.....	265	323	380	478	535	Sumner.....	259	315	372	465	521
Thomas.....	226	275	323	406	455	Trego.....	226	275	323	406	455
Wabaunsee.....	282	344	406	508	567	Wallace.....	226	275	323	406	455
Washington.....	280	341	401	504	563	Wichita.....	265	323	380	478	535
Wilson.....	224	272	320	400	451	Woodson.....	224	272	320	400	451

K E N T U C K Y

METROPOLITAN STATISTICAL AREAS	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Cincinnati, OH-KY-IN PMSA.....	342	415	489	611	684	Boone, Campbell, Kenton
Clarksville-Hopkinsville, TN-KY MSA.....	297	374	468	569	632	Christian
Evansville-Henderson, IN-KY MSA.....	315	376	441	553	619	Henderson
Huntington-Ashland, WV-KY-OH MSA.....	320	389	460	575	647	Boyd, Carter, Greenup
Lexington-Fayette, KY MSA.....	332	405	474	596	667	Bourbon, Clark, Fayette, Jessamine, Scott, Woodford
Louisville, KY-IN MSA.....	287	347	408	508	570	Bullitt, Jefferson, Oldham, Shelby
Owensboro, KY MSA.....	260	315	373	465	522	Daviess

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
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Adair.....	245	297	346	428	478
Anderson.....	304	371	436	545	611
Barren.....	259	314	373	464	522
Bell.....	263	322	379	473	532
Bracken.....	245	296	348	437	490
Breckinridge.....	238	293	343	430	480
Caldwell.....	260	316	376	469	526
Carlisle.....	250	303	355	446	500
Casey.....	237	291	342	428	478
Clinton.....	245	297	346	428	478
Cumberland.....	245	297	346	428	478
Elliot.....	224	271	322	403	451
Fleming.....	245	296	348	437	490

For example,
041492

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

K E N T U C K Y continued

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NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Franklin.....	304	371	436	545	611
Gallatin.....	251	305	357	449	502
Grant.....	251	305	357	449	502
Grayson.....	238	293	343	430	480
Hancock.....	253	307	363	454	507
Hartland.....	263	322	379	473	532
Hickman.....	205	250	294	367	411
Jackson.....	250	303	355	446	500
Knott.....	224	271	320	401	450
Larue.....	251	304	357	448	502
Lawrence.....	238	293	343	430	480
Leslie.....	224	271	322	403	451
Lewis.....	251	304	357	448	502
Livingston.....	245	296	348	437	490
Lyon.....	225	273	323	404	452
McCreary.....	225	273	323	404	452
Madison.....	245	297	346	428	478
Marion.....	296	357	427	529	593
Martin.....	238	293	343	430	480
Meade.....	264	323	380	475	534
Mercer.....	270	331	389	488	546
Monroe.....	304	371	436	545	611
Morgan.....	205	250	294	367	411
Nelson.....	245	297	348	437	490
Ohio.....	238	293	343	430	480
Owsley.....	253	307	363	454	507
Perry.....	251	304	357	448	502
Powell.....	251	304	357	448	502
Robertson.....	220	266	314	395	444
Rowan.....	245	296	348	437	490
Simpson.....	245	296	348	437	490
Taylor.....	261	318	377	471	528
Trigg.....	245	297	346	428	478
Union.....	225	273	323	404	452
Washington.....	253	307	363	454	507
Webster.....	238	293	343	430	480
Wolfe.....	253	307	363	454	507

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Fulton.....	250	303	355	446	500
Garrard.....	296	357	423	529	593
Graves.....	250	303	355	446	500
Green.....	245	297	346	428	478
Hardin.....	270	331	389	488	546
Harrison.....	296	359	423	528	592
Henry.....	223	270	318	400	448
Hopkins.....	260	316	376	469	526
Johnson.....	264	323	380	475	534
Knox.....	260	314	369	462	516
Laurel.....	224	273	323	404	452
Lee.....	251	304	357	448	502
Letcher.....	251	304	357	448	502
Lincoln.....	296	357	423	529	593
Logan.....	261	318	377	471	528
McCracken.....	260	306	360	446	500
McLean.....	253	307	363	454	507
Magoffin.....	264	323	380	475	534
Marshall.....	260	306	360	446	500
Mason.....	245	296	348	437	490
Menifee.....	245	297	348	437	490
Metcalfe.....	205	250	294	367	411
Montgomery.....	245	296	348	437	490
Muhlenberg.....	260	316	376	469	526
Nicholas.....	220	266	314	395	444
Owen.....	251	305	357	449	502
Pendleton.....	251	305	357	449	502
Pike.....	264	323	380	475	534
Pulaski.....	245	297	346	428	478
Rockcastle.....	224	271	320	401	450
Russell.....	237	291	342	428	478
Spencer.....	223	270	318	400	448
Todd.....	225	273	323	404	452
Trimble.....	223	270	318	400	448
Warren.....	261	318	377	471	528
Wayne.....	245	297	346	428	478
Whitley.....	263	322	379	473	532

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

LOUISIANA

METROPOLITAN STATISTICAL AREAS

EFF 1 BR 2 BR 3 BR 4 BR Counties of MSA/PMSA within STATE

Alexandria, LA MSA.....	280	342	402	503	562	Rapides
Baton Rouge, LA MSA.....	353	428	504	630	707	Ascension, East Baton Rouge, Livingston, West Baton Rouge
Houma-Thibodaux, LA MSA.....	312	379	447	558	626	Lafourche, Terrebonne
Lafayette, LA MSA.....	353	428	504	630	707	Lafayette, St Martin
Lake Charles, LA MSA.....	288	350	412	515	576	Calcasieu
Monroe, LA MSA.....	279	341	400	501	560	Ouachita
New Orleans, LA MSA.....	316	383	451	564	631	Jefferson, Orleans, St Bernard, St Charles, St John The
Shreveport, LA MSA.....	317	385	457	570	638	St Tammany Bossier, Caddo

NONMETROPOLITAN COUNTIES EFF 1 BR 2 BR 3 BR 4 BR

Acadia.....	237	291	343	427	480	Allen.....	189	231	274	344	383
Assumption.....	206	251	294	369	414	Avoyelles.....	234	286	339	423	473
Beauregard.....	189	231	274	344	383	Bienville.....	246	301	353	441	495
Caldwell.....	217	261	309	380	426	Cameron.....	189	231	274	344	383
Catahoula.....	234	286	339	423	473	Claiborne.....	246	301	353	441	495
Concordia.....	234	286	339	423	473	De Soto.....	246	301	353	441	495
East Carroll.....	188	230	272	341	379	E Feliciana.....	197	241	283	354	398
Evangeline.....	228	277	325	410	459	Franklin.....	188	230	272	341	379
Grant.....	234	286	339	423	473	Iberia.....	282	345	405	505	566
Iberville.....	197	241	283	354	398	Jackson.....	188	230	272	341	379
Jefferson Davis.....	189	231	274	344	383	La Salle.....	234	286	339	423	473
Lincoln.....	246	301	353	441	495	Madison.....	188	230	272	341	379
Morehouse.....	188	230	272	341	379	Natchitoches.....	246	301	353	441	495
Plaquemine.....	347	419	495	619	694	Pointe Coupee.....	197	241	283	354	398
Red River.....	246	301	353	441	495	Richland.....	188	230	272	341	379
Sabine.....	246	301	353	441	495	St Helena.....	197	241	283	354	398
St James.....	206	251	294	369	414	St Landry.....	228	277	325	410	459
St Mary.....	282	345	405	505	566	Tangipahoa.....	223	272	318	401	448
Tensas.....	188	230	272	341	379	Union.....	188	230	272	341	379
Vermilion.....	237	291	343	427	480	Vernon.....	234	286	339	423	473
Washington.....	223	272	318	401	448	Webster.....	214	259	306	381	428
West Carroll.....	188	230	272	341	379	W Feliciana.....	197	241	283	354	398
Winn.....	234	286	339	423	473						

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

MAINE

METROPOLITAN STATISTICAL AREAS

	EFF	1 BR	2 BR	3 BR	4 BR
Bangor, ME MSA.....	369	448	528	662	742
Lewiston-Auburn, ME MSA.....	388	462	523	585	666
Portland, ME MSA.....	454	577	731	819	984
Portsmouth-Dover-Rochester, NH-ME MSA.....	488	594	697	874	979

NONMETROPOLITAN COUNTIES

	EFF	1 BR	2 BR	3 BR	4 BR
Androscoggin.....	335	396	467	573	634
Aroostook.....	340	414	488	610	685
Cumberland.....	377	459	540	671	747
Franklin.....	355	402	479	566	643
Hancock.....	357	425	498	623	695
Kennebec.....	357	435	513	643	718
Knox.....	345	420	495	621	695
Lincoln.....	340	413	487	610	684
Oxford.....	355	402	479	566	643
Penobscot.....	352	425	495	621	695

Piscataquis.....	293	357	421	531	593
Sagadahoc.....	391	526	566	662	776
Somerset.....	340	413	487	610	684
Waldo.....	345	420	495	621	695

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

Components of MSA/PMSA within STATE

Penobscot county towns of Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Old Town, Orono, Orrington, Penobscot Indian I., Veazie
Waldo county towns of Winterport
Androscoggin county towns of Auburn, Greene, Lewiston
Lisbon, Mechanic Falls, Poland, Sabattus
Cumberland county towns of Cape Elizabeth, Cumberland, Falmouth, Freeport, Gorham, Gray, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth
York county towns of Buxton, Hollis, Old Orchard Beach
York county towns of Berwick, Elliot, Kittery
North Berwick, South Berwick, Wells, York

Towns within non metropolitan counties

Durham, Leeds, Livermore, Livermore Falls, Minot, Turner
Wales
Baldwin, Bridgton, Brunswick, Casco, Harpswell, Harrison
Naples, New Gloucester, Pownal, Sebago

Alton, Argyle, Bradford, Bradley, Burlington, Carmel
Carroll, Charlestown, Chester, Clifton, Corinna, Corinth
Dexter, Dixmont, Drew, East Millinocket, Edinburg
Enfield, Etna, Exeter, Garland, Grand Falls, Greenbush
Greenfield, Howland, Hudson, Kingman, Lagrange
Lakeville, Lee, Levant, Lincoln, Lowell, Mattawakeag
Maxfield, Medway, Milford, Millinocket, Mount Chase
Newburgh, Newport, North Penobscot, Passadumkeag, Patten
Plymouth, Prentiss, Sebobeis, Springfield, Stacyville
Stetson, Summit, Twombly, Webster, Whitney, Winn
Woodville

Belfast, Belmont, Brooks, Burnham, Frankfort, Freedom
Islesboro, Jackson, Knox, Liberty, Lincolnville, Monroe
Montville, Morrill, Northport, Palermo, Prospect
Searsmont, Searsport, Stockton Springs, Swanville
Thorndike, Troy, Unity, Waldo

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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MAINE continued

NONMETROPOLITAN COUNTIES

EFF 1 BR 2 BR 3 BR 4 BR Towns within non metropolitan counties

Washington..... 345 420 495 621 695
 York..... 432 508 643 662 803

Acton, Alfred, Arundel, Biddeford, Cornish, Dayton
 Kennebunk, Kennebunkport, Lebanon, Limerick, Limington
 Lyman, Newfield, Parsonsfield, Saco, Sanford, Shapleigh
 Waterboro

MARYLAND

METROPOLITAN STATISTICAL AREAS

EFF 1 BR 2 BR 3 BR 4 BR Counties of MSA/PMSA within STATE

Baltimore, MD MSA..... 414 504 593 742 831 Anne Arundel, Baltimore, Carroll, Harford, Howard
 Queen Annes, Baltimore
 Columbia, MD MSA..... 539 654 770 963 1078 Columbia
 Cumberland, MD-WV MSA..... 294 350 411 507 566 Allegany
 Hagerstown, MD MSA..... 329 400 472 591 660 Washington
 Washington, DC-MD-VA MSA..... 597 725 854 1067 1195 Calvert, Charles, Frederick, Montgomery, Prince George's
 Wilmington, DE-NJ-MD PMSA..... 454 542 646 808 961 Cecil

NONMETROPOLITAN COUNTIES

EFF 1 BR 2 BR 3 BR 4 BR NONMETROPOLITAN COUNTIES

Caroline..... 310 372 437 549 616
 Garrett..... 294 358 422 526 591
 St Marys..... 449 544 634 796 880
 Talbot..... 354 431 507 635 711
 Worcester..... 319 391 456 570 639

Dorchester..... 317 385 456 570 639
 Kent..... 322 394 464 582 651
 Somerset..... 317 385 456 570 639
 Wicomico..... 378 463 542 571 639

MASSACHUSETTS

METROPOLITAN STATISTICAL AREAS

EFF 1 BR 2 BR 3 BR 4 BR Components of MSA/PMSA within STATE

Boston, MA PMSA..... 550 668 786 983 1100

Bristol county towns of Mansfield, Norton, Raynham
 Essex county towns of Lynn, Lynnfield, Nahant, Saugus
 Middlesex county towns of Acton, Arlington, Ashland, Ayer
 Bedford, Belmont, Boxborough, Burlington, Cambridge
 Carlisle, Concord, Everett, Framingham, Groton
 Holliston, Hopkinton, Hudson, Lexington, Lincoln
 Littleton, Malden, Marlborough, Maynard, Medford
 Melrose, Natick, Newton, North Reading, Reading
 Sherborn, Shirley, Somerville, Stoneham, Stow, Sudbury
 Townsend, Wakefield, Waltham, Watertown, Wayland, Weston
 Wilmington, Winchester, Woburn
 Norfolk county towns of Bellingham, Braintree, Brookline
 Canton, Cohasset, Dedham, Dover, Foxborough, Franklin
 Holbrook, Medfield, Medway, Millis, Milton, Needham
 Norfolk, Norwood, Quincy, Randolph, Sharon, Stoughton
 Walpole, Wellesley, Westwood, Wrentham
 Plymouth county towns of Carver, Duxbury, Hanover, Hanson

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING
 MASSACHUSETTS continued
 METROPOLITAN STATISTICAL AREAS

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	EFF	1 BR	2 BR	3 BR	4 BR	Components of MSA/PMSA within STATE
Brockton, MA PMSA.....	468	568	668	835	935	Hingham, Hull, Kingston, Lakeville, Marshfield, Middleborough, Norwell, Pembroke, Plymouth, Plympton Rockland, Scituate Suffolk county towns of Boston, Chelsea, Revere, Winthrop Worcester county towns of Berlin, Bolton, Harvard, Hopedale, Lancaster, Mendon, Milford, Southborough, Upton
Fall River, MA-RI PMSA.....	433	517	620	718	792	Bristol county towns of Easton Norfolk county towns of Avon Plymouth county towns of Abington, Bridgewater, Brockton East Bridgewater, Halifax, West Bridgewater, Whitman
Fitchburg-Leominster, MA MSA.....	475	573	678	847	950	Bristol county towns of Fall River, Somerset, Swansea Westport Middlesex county towns of Ashby Worcester county towns of Ashburnham, Fitchburg, Leominster, Lunenburg, Westminster Essex county towns of Amesbury, Andover, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, Newbury, Newburyport, North Andover, Salisbury, West Newbury
Lawrence-Haverhill, MA-NH PMSA.....	452	548	645	806	903	Middlesex county towns of Billerica, Chelmsford, Dracut, Dunstable, Lowell, Pepperell, Tewksbury, Tyngsborough, Westford Bristol county towns of Acushnet, Dartmouth, Fairhaven, Freeport, New Bedford
Lowell, MA-NH PMSA.....	475	577	679	849	951	Plymouth county towns of Marion, Mattapoisett, Rochester Bristol county towns of Attleboro, North Attleborough, Rehoboth, Seekonk
New Bedford, MA MSA.....	441	496	587	718	792	Norfolk county towns of Plainville Worcester county towns of Blackstone, Millville Berkshire county towns of Cheshire, Dalton, Hinsdale, Lanesborough, Lee, Lenox, Pittsfield, Richmond, Stockbridge
Pawtucket-Woonsocket-Attleboro, RI-MA PMSA.....	420	507	598	734	839	Essex county towns of Beverly, Danvers, Essex, Gloucester, Hamilton, Ipswich, Manchester, Marblehead, Middleton, Peabody, Rockport, Rowley, Salem, Swampscott, Topsfield, Wenham
Pittsfield, MA MSA.....	438	531	621	773	872	Hampden county towns of Agawam, Chicopee, East Longmeadow, Hampden, Holyoke, Longmeadow, Ludlow, Monson, Montgomery, Palmer, Russell, Southwick, Springfield, Westfield, West Springfield, Wilbraham
Salem-Gloucester, MA PMSA.....	522	634	746	933	1044	Hampshire county towns of Belchertown, Easthampton, Granby, Huntington, Northampton, Southampton, South Hadley
Springfield, MA MSA.....	414	502	591	739	827	Worcester county towns of Auburn, Barre, Boylston, Brookfield, Charlton, Clinton, Douglas, Dudley, East Brookfield, Grafton, Holden, Leicester, Millbury
Worcester, MA MSA.....	454	559	654	823	917	

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

MASSACHUSETTS continued

METROPOLITAN STATISTICAL AREAS

Components of MSA/PMSA within STATE

Northborough, Northbridge, North Brookfield, Oxford
Paxton, Princeton, Rutland, Shrewsbury, Spencer
Sterling, Sutton, Uxbridge, Webster, Westborough
West Boylston, Worcester

NONMETROPOLITAN COUNTIES

Towns within non metropolitan counties

	EFF 1 BR	2 BR	3 BR	4 BR	
Barnstable.....	583	719	824	1030	1156
Berkshire.....	382	465	547	686	768
Bristol.....	423	513	605	727	808
Dukes.....	583	719	824	1030	1156
Franklin.....	444	528	616	776	864
Hampden.....	400	486	572	717	804
Hampshire.....	521	605	741	892	1036
Nantucket.....	583	719	824	1030	1156
Plymouth.....	453	549	646	785	906
Worcester.....	423	500	605	741	824
Adams, Alford, Becket, Clarksburg, Egremont, Florida Great Barrington, Hancock, Monterey, Mount Washington New Ashford, New Marlborough, North Adams, Otis, Peru Sandisfield, Savoy, Sheffield, Tyringham, Washington West Stockbridge, Williamstown, Windsor Berkley, Dighton, Taunton					
Blandford, Brimfield, Chester, Granville, Holland Tolland, Wales Amherst, Chesterfield, Cummington, Goshen, Hadley Hatfield, Middlefield, Pelham, Plainfield, Ware Westhampton, Williamsburg, Worthington Wareham Athol, Gardner, Hardwick, Hubbardston, New Braintree Oakham, Petersham, Phillipston, Royalston, Southbridge Sturbridge, Templeton, Warren, West Brookfield Winchendon					

MICHIGAN

METROPOLITAN STATISTICAL AREAS

Counties of MSA/PMSA within STATE

	EFF 1 BR	2 BR	3 BR	4 BR	
Ann Arbor, MI PMSA.....	434	528	622	778	872
Battle Creek, MI MSA.....	297	361	424	532	597
Benton Harbor, MI MSA.....	330	402	471	591	662
Detroit, MI PMSA.....	365	444	522	653	731
Flint, MI MSA.....	313	380	450	562	629
Grand Rapids, MI MSA.....	351	431	505	631	713
Jackson, MI MSA.....	327	396	467	585	655
Kalamazoo, MI MSA.....	340	410	483	594	662
Lansing-East Lansing, MI MSA.....	358	429	502	625	698
Muskegon, MI MSA.....	290	352	416	521	584
Saginaw-Bay City-Midland, MI MSA.....	323	390	458	573	641
Washtenaw Calhoun Berrien Lapeer, Livingston, Macomb, Monroe, Oakland, St Clair Wayne Genesee Kent, Ottawa Jackson Kalamazoo Clinton, Eaton, Ingham Muskegon Bay, Midland, Saginaw					

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I C H I G A N continued

PAGE 24

NONMETROPOLITAN COUNTIES	EFF 1	BR 2	BR 3	BR 4	BR
Alcona.....	257	314	369	463	519
Allegan.....	297	364	427	534	599
Antrim.....	323	390	459	576	646
Baraga.....	263	320	376	471	529
Benzie.....	323	390	459	576	646
Cass.....	292	356	418	524	587
Cheboygan.....	257	314	369	463	519
Clare.....	282	343	407	506	567
Delta.....	253	309	365	455	511
Emmet.....	323	390	459	576	646
Gogebic.....	263	320	376	471	529
Gratiot.....	324	392	462	580	648
Houghton.....	295	360	424	529	599
Ionia.....	301	365	429	535	599
Iron.....	263	320	376	471	529
Kalkaska.....	323	390	459	576	646
Lake.....	295	361	424	530	595
Lenawee.....	321	388	457	573	643
Mackinac.....	253	309	365	455	511
Marquette.....	323	390	459	576	646
Mecosta.....	295	361	424	530	595
Missaukee.....	323	390	459	576	646
Montmorency.....	257	314	369	463	519
Oceana.....	287	347	411	516	576
Ontonagon.....	263	320	376	471	529
Oscoda.....	257	314	369	463	519
Presque Isle.....	257	314	369	463	519
St Joseph.....	300	366	431	539	603
Schoolcraft.....	253	309	365	455	511
Tuscola.....	290	354	415	520	583
Wexford.....	323	390	459	576	646

M I N N E S O T A

METROPOLITAN STATISTICAL AREAS

EFF 1	BR 2	BR 3	BR 4	BR
Duluth, MN-WI MSA.....	331	395	466	585
Fargo-Moorhead, ND-MN MSA.....	335	407	478	600
Minneapolis-St. Paul, MN-WI MSA.....	440	535	630	788

COUNTIES OF MSA/PMSA WITHIN STATE

EFF 1	BR 2	BR 3	BR 4	BR
St Louis	585	657	788	882
Clay	600	672	788	882
Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey	320	387	456	570
Scott, Washington, Wright	292	356	418	524

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. O41492

NONMETROPOLITAN COUNTIES	EFF 1	BR 2	BR 3	BR 4	BR
Alger.....	253	309	365	455	511
Alpena.....	257	314	369	463	519
Arenac.....	282	343	407	506	567
Barry.....	300	366	431	539	603
Branch.....	300	366	431	539	603
Charlevoix.....	323	390	459	576	646
Chippewa.....	253	309	365	455	511
Crawford.....	257	314	369	463	519
Dickinson.....	263	323	393	492	553
Gladwin.....	282	343	407	506	567
Grand Traverse.....	323	390	459	576	646
Hillsdale.....	321	388	457	573	643
Huron.....	290	354	415	520	583
Iosco.....	282	343	407	506	567
Isabella.....	324	392	462	580	648
Keeweenaw.....	263	320	376	471	529
Leelanau.....	323	390	459	576	646
Luce.....	253	309	365	455	511
Manistee.....	323	390	459	576	646
Mason.....	295	361	424	530	595
Menominee.....	323	390	459	576	646
Montcalm.....	297	364	427	534	599
Newaygo.....	295	361	424	530	595
Ogemaw.....	282	343	407	506	567
Oscoda.....	295	361	424	530	595
Otsego.....	257	314	369	463	519
Roscommon.....	282	343	407	506	567
Sanilac.....	290	354	415	520	583
Shiawassee.....	320	387	456	570	641
Van Buren.....	292	356	418	524	587

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

MINNESOTA continued

METROPOLITAN STATISTICAL AREAS						EFF 1 BR 2 BR 3 BR 4 BR						Counties of MSA/PMSA within STATE									
Rochester, MN MSA.....						352	427	504	630	705	Olmsted										
St. Cloud, MN MSA.....						334	407	480	602	672	Benton, Sherburne, Stearns										
NONMETROPOLITAN COUNTIES						EFF 1	BR 2	BR 3	BR 4	BR	NONMETROPOLITAN COUNTIES						EFF 1	BR 2	BR 3	BR 4	BR
Aitkin.....						299	364	428	537	602	Becker.....						297	363	426	535	600
Beltrami.....						287	349	412	513	578	Big Stone.....						265	324	382	479	535
Blue Earth.....						332	403	468	579	640	Brown.....						283	345	405	507	568
Carlton.....						301	366	428	537	602	Cass.....						281	341	401	503	564
Chippewa.....						265	324	382	479	535	Clearwater.....						287	349	412	513	578
Cook.....						299	364	428	537	602	Cottonwood.....						265	324	382	479	535
Crow Wing.....						281	341	426	529	587	Dodge.....						269	327	385	482	540
Douglas.....						297	363	426	535	600	Faribault.....						283	345	405	507	568
Fillmore.....						275	334	395	494	552	Freeborn.....						325	395	467	583	654
Goodhue.....						287	349	409	507	568	Grant.....						297	363	426	535	600
Houston.....						275	334	395	494	552	Hubbard.....						287	349	412	513	578
Itasca.....						301	366	428	537	602	Jackson.....						274	330	387	482	536
Kanabec.....						299	364	428	537	602	Kandiyohi.....						314	382	449	563	629
Kittson.....						287	349	412	513	578	Koochiching.....						299	364	428	537	602
Lac Qui Parle.....						265	324	382	479	535	Lake.....						299	364	428	537	602
Lake Of The Woods.....						287	349	412	513	578	Le Sueur.....						312	380	445	556	625
Lincoln.....						274	330	387	482	536	Lyon.....						274	330	387	482	536
McLeod.....						314	382	449	563	629	Mahnomen.....						287	349	412	513	578
Marshall.....						287	349	412	513	578	Martin.....						283	345	405	507	568
Meeker.....						314	382	449	563	629	Mille Lacs.....						299	364	428	537	602
Morrison.....						281	341	401	503	564	Mower.....						275	334	395	494	552
Murray.....						274	330	387	482	536	Nicollet.....						312	380	445	556	625
Nobles.....						274	330	387	482	536	Norman.....						287	349	412	513	578
Otter Tail.....						297	363	426	535	600	Pennington.....						287	349	412	513	578
Pine.....						299	364	428	537	602	Pipestone.....						274	330	387	482	536
Polk.....						287	349	412	513	578	Pope.....						297	363	426	535	600
Red Lake.....						287	349	412	513	578	Redwood.....						265	324	382	479	535
Renville.....						314	382	449	563	629	Rice.....						325	395	467	583	654
Rock.....						274	330	387	482	536	Roseau.....						287	349	412	513	578
Sibley.....						312	380	445	556	625	Steele.....						325	395	467	583	654
Stevens.....						297	363	426	535	600	Swift.....						265	324	382	479	535
Todd.....						281	341	401	503	564	Traverse.....						297	363	426	535	600
Wabasha.....						287	349	409	507	568	Wadena.....						281	341	401	503	564
Waseca.....						283	345	405	507	568	Watsonwan.....						283	345	405	507	568
Wilkin.....						297	363	426	535	600	Winona.....						277	334	395	494	552
Yellow Medicine.....						265	324	382	479	535											

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. For example, 041492.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

MISSISSIPPI

PAGE 26

METROPOLITAN STATISTICAL AREAS

	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Biloxi-Gulfport, MS MSA.....	276	338	398	499	558	Hancock, Harrison
Jackson, MS MSA.....	352	428	505	633	710	Hinds, Madison, Rankin
Memphis, TN-AR-MS MSA.....	316	383	451	562	629	De Soto
Pascagoula, MS MSA.....	304	368	431	543	610	Jackson

NONMETROPOLITAN COUNTIES

	EFF	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams.....	244	280	331	439	475	Alcorn.....	243	293	345	430	485
Amite.....	202	246	288	359	405	Attala.....	203	248	290	363	407
Benton.....	225	274	324	407	456	Bolivar.....	232	283	335	418	468
Calhoun.....	264	322	380	474	537	Carroll.....	203	248	290	363	407
Chickasaw.....	271	322	380	478	534	Choctaw.....	261	305	356	448	502
Claiborne.....	202	246	288	359	405	Clarke.....	262	318	373	467	522
Clay.....	261	305	356	448	502	Coahoma.....	246	296	348	435	491
Copiah.....	213	259	306	382	428	Covington.....	205	250	294	367	411
Forrest.....	262	319	377	470	528	Franklin.....	202	246	288	359	405
George.....	205	250	294	367	411	Greene.....	205	250	294	367	411
Grenada.....	267	325	383	479	537	Holmes.....	203	248	290	363	407
Humphreys.....	232	283	335	418	468	Issaquena.....	232	283	335	418	468
Itawamba.....	250	303	355	446	499	Jasper.....	262	318	373	467	522
Jefferson.....	202	246	288	359	405	Jefferson Davis.....	205	250	294	367	411
Jones.....	264	308	347	395	439	Kemper.....	262	318	373	467	522
Lafayette.....	264	322	380	474	534	Lamar.....	262	319	377	470	528
Lauderdale.....	260	315	373	467	522	Lawrence.....	202	246	288	359	405
Leake.....	222	270	320	403	451	Lee.....	282	342	401	505	565
Leflore.....	264	294	346	451	487	Lincoln.....	202	246	288	359	405
Lowndes.....	288	356	410	550	572	Marion.....	262	319	377	470	528
Marshall.....	225	274	324	407	456	Monroe.....	250	303	355	446	499
Montgomery.....	203	248	290	363	407	Neshoba.....	222	270	320	403	451
Newton.....	222	270	320	403	451	Noxubee.....	251	305	356	448	502
Oktibbeha.....	251	305	356	448	502	Panola.....	246	296	348	435	491
Pearl River.....	262	319	377	470	528	Perry.....	205	250	294	367	411
Pike.....	244	280	331	439	475	Pontotoc.....	271	322	380	478	534
Prentiss.....	225	274	324	407	456	Quitman.....	246	296	348	435	491
Scott.....	222	270	320	403	451	Sharkey.....	232	283	335	418	468
Simpson.....	213	259	306	382	428	Smith.....	222	270	320	403	451
Stone.....	262	319	377	470	528	Sunflower.....	232	283	335	418	468
Tallahatchie.....	246	296	348	435	491	Tate.....	246	296	348	435	491
Tippah.....	225	274	324	407	456	Tishomingo.....	225	274	324	407	456
Tunica.....	246	296	348	435	491	Union.....	271	322	380	478	534
Walthall.....	202	246	288	359	405	Warren.....	296	359	423	532	595

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

MISSISSIPPI continued

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Washington.....	232	283	335	418 468
Webster.....	261	305	356	448 502
Winston.....	261	305	356	448 502
Yazoo.....	296	359	423	532 595

MISSOURI

METROPOLITAN STATISTICAL AREAS

	EFF 1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Columbia, MO MSA.....	291	353	416	520 583	Boone
Joplin, MO MSA.....	251	306	360	452 507	Jasper, Newton
Kansas City, MO-KS MSA.....	342	416	489	611 685	Cass, Clay, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA.....	268	325	383	478 539	Buchanan
St. Louis, MO-IL MSA.....	351	426	503	628 704	Crawford, Franklin, Jefferson, St Charles, St Louis
Springfield, MO MSA.....	278	341	401	504 561	Christian, Greene

NONMETROPOLITAN COUNTIES

	EFF 1 BR	2 BR	3 BR	4 BR
Adair.....	250	303	358	450 504
Atchison.....	236	289	340	425 477
Barry.....	231	281	333	415 465
Bates.....	225	273	322	404 454
Bollinger.....	265	323	379	474 535
Caldwell.....	236	289	341	425 477
Camden.....	253	307	362	454 508
Carroll.....	244	297	350	436 492
Cedar.....	225	273	322	404 454
Clark.....	250	303	358	450 504
Cole.....	278	338	399	499 559
Crawford.....	242	296	346	434 489
Dallas.....	231	281	333	415 465
De Kalb.....	236	289	340	425 477
Douglas.....	219	267	312	391 439
Gasconade.....	242	296	346	434 489
Grundy.....	250	303	358	450 504
Henry.....	225	273	322	404 454
Holt.....	236	289	340	425 477
Howell.....	219	267	312	391 439
Johnson.....	253	308	360	454 508
Laclede.....	253	307	362	454 508
Lewis.....	248	300	354	442 493
Linn.....	250	303	358	450 504

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. The FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

For example,
041492

NONMETROPOLITAN COUNTIES

EFF 1 BR	2 BR	3 BR	4 BR
Wayne.....	205	250	294 367 411
Wilkinson.....	202	246	288 359 405
Yalobusha.....	203	248	290 363 407

COUNTIES OF MSA/PMSA WITHIN STATE

	EFF 1 BR	2 BR	3 BR	4 BR
Andrew.....	263	319	376	470 530
Audrain.....	278	338	399	499 559
Barton.....	225	273	322	404 454
Benton.....	225	273	322	404 454
Butler.....	219	267	317	396 442
Callaway.....	278	338	399	499 559
Cape Girardeau.....	265	323	379	474 535
Carter.....	219	267	317	396 442
Chariton.....	244	297	350	436 492
Clinton.....	236	289	340	425 477
Cooper.....	278	338	399	499 559
Dade.....	231	281	333	415 465
Davies.....	236	289	341	425 477
Dent.....	242	296	346	434 489
Dunklin.....	219	267	312	391 439
Gentry.....	236	289	340	425 477
Harrison.....	236	289	341	425 477
Hickory.....	225	273	322	404 454
Howard.....	278	338	399	499 559
Iron.....	265	323	379	474 535
Knox.....	250	303	358	450 504
Lawrence.....	231	281	333	415 465
Lincoln.....	242	296	346	434 489
Livingston.....	250	303	358	450 504

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

MISSOURI continued

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NONMETROPOLITAN COUNTIES	EFF 1	BR 2	BR 3	BR 4	BR
McDonald.....	231	281	333	415	465
Madison.....	265	323	379	474	535
Marion.....	248	300	354	442	493
Miller.....	253	307	362	454	508
Moniteau.....	278	338	399	499	559
Montgomery.....	242	296	346	434	489
New Madrid.....	219	267	312	391	439
Oregon.....	219	267	312	391	439
Ozark.....	219	267	312	391	439
Perry.....	265	323	379	474	535
Phelps.....	283	342	404	511	574
Polk.....	231	281	333	415	465
Putnam.....	250	303	358	450	504
Randolph.....	242	296	346	434	489
Ripley.....	219	267	317	396	442
Ste. Genevieve.....	265	323	379	474	535
Saline.....	244	297	350	436	492
Scotland.....	250	303	358	450	504
Shannon.....	219	267	312	391	439
Stoddard.....	219	267	312	391	439
Sullivan.....	250	303	358	450	504
Texas.....	219	267	312	391	439
Warren.....	242	296	346	434	489
Wayne.....	219	267	317	396	442
Worth.....	236	289	340	425	477

MONTANA

METROPOLITAN STATISTICAL AREAS

Billings, MT MSA.....	384	467	550	688	771
Great Falls, MT MSA.....	340	412	487	610	683

COUNTIES OF MSA/PMSA WITHIN STATE

Yellowstone	688	771
Cascade	610	683

NONMETROPOLITAN COUNTIES

NONMETROPOLITAN COUNTIES	EFF 1	BR 2	BR 3	BR 4	BR
Beaverhead.....	339	412	485	607	682
Blaine.....	316	385	451	566	635
Carbon.....	318	388	457	572	641
Chouteau.....	316	385	451	566	635
Daniels.....	316	385	451	566	635
Deer Lodge.....	339	412	485	607	682
Fergus.....	318	388	457	572	641

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

NONMETROPOLITAN COUNTIES	EFF 1	BR 2	BR 3	BR 4	BR
Macon.....	242	296	346	434	489
Maries.....	242	296	346	434	489
Mercer.....	236	289	341	425	477
Mississippi.....	219	267	312	391	439
Monroe.....	242	296	346	434	489
Morgan.....	253	307	362	454	508
Nodaway.....	246	289	350	425	477
Osage.....	278	338	399	499	559
Pemiscot.....	219	267	312	391	439
Pettis.....	244	297	350	436	492
Pike.....	242	296	346	434	489
Pullaski.....	253	307	362	454	508
Rails.....	248	300	354	442	493
Reynolds.....	219	267	317	396	442
St Clair.....	225	273	322	404	454
St Francois.....	265	323	379	474	535
Schuyler.....	250	303	358	450	504
Scott.....	265	323	379	474	535
Shelby.....	242	296	346	434	489
Stone.....	231	281	333	415	465
Taney.....	231	281	333	415	465
Vernon.....	225	273	322	404	454
Washington.....	242	296	346	434	489
Webster.....	231	281	333	415	465
Wright.....	219	267	312	391	439

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M O N T A N A continued

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Gallatin.....	373	460	544	758
Glacier.....	316	385	451	566
Granite.....	339	412	485	607
Jefferson.....	339	412	485	607
Lake.....	345	421	495	620
Liberty.....	316	385	451	566
McCone.....	318	388	457	572
Meagher.....	339	412	485	607
Missoula.....	345	421	495	620
Park.....	339	412	485	607
Phillips.....	316	385	451	566
Powder River.....	318	388	457	572
Prairie.....	318	388	457	572
Richland.....	318	388	457	572
Rosebud.....	318	388	457	572
Sheridan.....	316	385	451	566
Stillwater.....	318	388	457	572
Teton.....	316	385	451	566
Treasure.....	318	388	457	572
Wheatland.....	318	388	457	572
Y1-St-Nt-Pk.....	339	412	485	607

N E B R A S K A

METROPOLITAN STATISTICAL AREAS	EFF 1 BR	2 BR	3 BR	4 BR
Lincoln, NE MSA.....	331	402	474	594
Omaha, NE-IA MSA.....	326	395	464	581
Sioux City, IA-NE MSA.....	322	392	461	576
NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Adams.....	291	355	417	523
Arthur.....	246	299	353	441
Blaine.....	239	290	341	427
Box Butte.....	272	331	390	487
Brown.....	239	290	341	427
Burt.....	260	317	373	468
Cass.....	257	313	368	461
Chase.....	246	299	353	441
Cheyenne.....	239	290	341	427
Colfax.....	260	317	373	468
Counties of MSA/PMSA within STATE	EFF 1 BR	2 BR	3 BR	4 BR
Antelope.....	282	343	406	505
Banner.....	239	290	341	427
Boone.....	260	317	373	468
Boyd.....	239	290	341	427
Butler.....	291	355	417	523
Butler.....	257	313	368	461
Cedar.....	282	343	406	505
Cherry.....	239	290	341	427
Clay.....	291	355	417	523
Cuming.....	260	317	373	468

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

For example,
041492

SCHEDULE B FAIR MARKET RENTS FOR EXISTING HOUSING
N E B R A S K A continued

PAGE 30

NONMETROPOLITAN COUNTIES					NONMETROPOLITAN COUNTIES						
EFF	1 BR	2 BR	3 BR	4 BR	EFF	1 BR	2 BR	3 BR	4 BR		
Custer.....	239	290	341	427	481	Daves.....	239	290	341	427	481
Dawson.....	246	299	353	441	493	Deuel.....	239	290	341	427	481
Dixon.....	282	343	406	505	568	Dodge.....	260	317	373	468	525
Dundy.....	246	299	353	441	493	Fillmore.....	257	313	368	461	519
Franklin.....	291	355	417	523	585	Frontier.....	246	299	353	441	493
Furnas.....	246	299	353	441	493	Gage.....	285	346	408	512	571
Garden.....	239	290	341	427	481	Garfield.....	239	290	341	427	481
Gosper.....	246	299	353	441	493	Grant.....	246	299	353	441	493
Greeley.....	239	290	341	427	481	Hall.....	291	355	417	523	585
Hamilton.....	291	355	417	523	585	Harlan.....	291	355	417	523	585
Hayes.....	246	299	353	441	493	Hitchcock.....	246	299	353	441	493
Holt.....	243	298	351	436	487	Hooker.....	246	299	353	441	493
Howard.....	291	355	417	523	585	Jefferson.....	257	313	368	461	519
Johnson.....	257	313	368	461	519	Kearney.....	291	355	417	523	585
Keith.....	246	299	353	441	493	Keya Paha.....	243	298	351	436	487
Kimball.....	239	290	341	427	481	Knox.....	282	343	406	505	568
Lincoln.....	246	299	353	441	493	Logan.....	246	299	353	441	493
Loup.....	239	290	341	427	481	McPherson.....	246	299	353	441	493
Madison.....	282	343	406	505	568	Merrick.....	291	355	417	523	585
Morrill.....	239	290	341	427	481	Nance.....	260	317	373	468	525
Nemaha.....	257	313	368	461	519	Nuckolls.....	291	355	417	523	585
Otoe.....	257	313	368	461	519	Pawnee.....	257	313	368	461	519
Perkins.....	246	299	353	441	493	Phelps.....	291	355	417	523	585
Pierce.....	282	343	406	505	568	Platte.....	260	317	373	468	525
Polk.....	257	313	368	461	519	Red Willow.....	246	299	353	441	493
Richardson.....	257	313	368	461	519	Rock.....	243	298	351	436	487
Saline.....	257	313	368	461	519	Saunders.....	257	313	368	461	519
Scotts Bluff.....	278	334	390	484	538	Seward.....	257	313	368	461	519
Sheridan.....	239	290	341	427	481	Sherman.....	239	290	341	427	481
Sioux.....	239	290	341	427	481	Stanton.....	282	343	406	505	568
Thayer.....	257	313	368	461	519	Thomas.....	246	299	353	441	493
Thurston.....	260	317	373	468	525	Valley.....	239	290	341	427	481
Wayne.....	282	343	406	505	568	Webster.....	291	355	417	523	585
Wheeler.....	239	290	341	427	481	York.....	257	313	368	461	519

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

N E V A D A

METROPOLITAN STATISTICAL AREAS

	EFF 1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Las Vegas, NV, MSA.....	481	583	687	862	Clark
Reno, NV MSA.....	403	489	575	719	Washoe

NONMETROPOLITAN COUNTIES

	EFF 1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Churchill.....	423	508	600	749	Douglas.....	423	508	600	749
Elko.....	423	508	600	749	Esmeralda.....	419	508	600	749
Eureka.....	419	508	600	749	Humboldt.....	423	508	600	749
Lander.....	423	508	600	749	Lincoln.....	419	508	600	749
Lyon.....	423	508	600	749	Mineral.....	423	508	600	749
Nye.....	419	508	600	749	Pershing.....	423	508	600	749
Storey.....	423	508	600	749	White Pine.....	419	508	600	749
Carson City.....	423	508	600	749					

N E W H A M P S H I R E

METROPOLITAN STATISTICAL AREAS

	EFF 1 BR	2 BR	3 BR	4 BR	Components of MSA/PMSA within STATE
Lawrence-Haverhill, MA-NH PMSA.....	452	548	645	806	Rockingham county towns of Atkinson, Brentwood, Danville Derry, East Kingston, Hampstead, Kingston, Newton Plaistow, Salem, Sandown, Seabrook, Windham
Lowell, MA-NH PMSA.....	475	577	679	849	Hillsborough county towns of Pelham
Manchester, NH MSA.....	470	572	673	841	Hillsborough county towns of Bedford, Goffstown Manchester
Nashua, NH PMSA.....	501	608	715	894	Merrimack county towns of Allentown, Hooksett Rockingham county towns of Auburn, Candia Hillsborough county towns of Amherst, Brookline, Hollis Hudson, Litchfield, Merrimack, Milford, Mont Vernon Nashua, Wilton

portsmouth-Dover-Rochester, NH-ME MSA.....

488 594 697 874 979

NONMETROPOLITAN COUNTIES

	EFF 1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Belknap.....	406	491	570	708	Rockingham county towns of Londonderry
Carroll.....	401	487	573	717	Rockingham county towns of Exeter, Greenland, Hampton New Castle, Newfields, Newington, Newmarket
Cheshire.....	491	595	700	876	North Hampton, Portsmouth, Rye, Stratham
Coos.....	374	455	537	669	Strafford county towns of Barrington, Dover, Durham
Grafton.....	417	508	599	748	Farmington, Lee, Madbury, Milton, Rochester, Rollinsford Somersworth

Hillsborough.....

532 645 760 950 1064

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NEW HAMPSHIRE continued

NONMETROPOLITAN COUNTIES

PAGE 32

	EFF	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Merrimack.....	532	645	760	950	1064	Greenville, Hancock, Hillsborough, Lyndeborough, Mason New Boston, New Ipswich, Peterborough, Sharon, Temple Weare, Windsor
Rockingham.....	514	625	734	918	1016	Andover, Boscawen, Bow, Bradford, Canterbury, Chichester Concord, Danbury, Dunbarton, Epsom, Franklin, Henniker Hill, Hopkinton, Loudon, Newbury, New London, Northfield Pembroke, Pittsfield, Salisbury, Sutton, Warner, Webster Wilmot
Strafford.....	455	556	654	820	904	Chester, Deerfield, Epping, Fremont, Hampton Falls Kensington, Northwood, Nottingham, Raymond
Sullivan.....	406	491	572	713	802	South Hampton Middleton, New Durham, Strafford

NEW JERSEY

METROPOLITAN STATISTICAL AREAS

	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Allentown-Bathlehem-Easton, PA-NJ MSA.....	380	462	540	681	759	Warren
Atlantic City, NJ MSA.....	451	552	647	808	909	Atlantic, Cape May
Bergen-Passaic, NJ PMSA.....	645	783	929	1161	1301	Bergen, Passaic
Jersey City, NJ PMSA.....	456	555	653	818	915	Hudson
Middlesex-Somerset-Hunterdon, NJ PMSA.....	597	726	853	1069	1197	Hunterdon, Middlesex, Somerset
Monmouth-Ocean, NJ PMSA.....	537	651	767	959	1076	Monmouth, Ocean
Newark, NJ PMSA.....	535	650	765	956	1071	Essex, Morris, Sussex, Union
Philadelphia, PA-NJ PMSA.....	444	538	634	793	889	Burlington, Camden, Gloucester
Trenton, NJ PMSA.....	543	661	778	974	1090	Mercer
Vineland-Millville-Bridgeton, NJ PMSA.....	435	530	622	780	874	Cumberland
Wilmington, DE-NJ-MD PMSA.....	454	542	646	808	961	Salem

NEW MEXICO

METROPOLITAN STATISTICAL AREAS

	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Albuquerque, NM MSA.....	393	479	562	704	789	Bernalillo
Las Cruces, NM MSA.....	313	379	446	559	627	Dona Ana
Santa Fe, NM MSA.....	458	557	657	819	919	Los Alamos, Santa Fe

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. Q41492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NEW MEXICO continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Catron.....	279	338	400	499	558
Cibola.....	279	338	400	499	558
Curry.....	287	350	412	516	577
Eddy.....	333	405	478	598	669
Guadalupe.....	287	350	412	516	577
Hidalgo.....	279	338	400	499	558
Lincoln.....	303	367	433	541	607
McKinley.....	386	470	553	694	776
Otero.....	303	367	433	541	607
Rio Arriba.....	258	314	370	462	520
Sandoval.....	326	399	469	586	657
San Miguel.....	287	350	412	516	577
Socorro.....	303	367	433	541	607
Torrance.....	287	350	412	516	577
Valencia.....	279	338	400	499	558

NEW YORK

METROPOLITAN STATISTICAL AREAS

Albany-Schenectady-Troy, NY MSA.....	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Binghamton, NY MSA.....	385	463	547	689	766	Albany, Greene, Montgomery, Rensselaer, Saratoga
Buffalo, NY MSA.....	346	418	494	611	687	Schenectady
Elmira, NY MSA.....	329	401	471	590	660	Broome, Tioga
Glens Falls, NY MSA.....	352	427	503	630	708	Erie
Jamestown-Dunkirk, NY MSA.....	363	442	520	649	730	Chemung
Nassau-Suffolk, NY PMSA.....	325	397	466	586	653	Warren, Washington
New York, NY PMSA.....	635	771	908	1137	1271	Chautauqua
Westchester, NY.....	477	579	681	854	957	Nassau, Suffolk
Niagara Falls, NY PMSA.....	570	691	813	1016	1137	Brox, Kings, New York, Putnam, Queens, Richmond
Orange County, NY PMSA.....	332	404	476	595	666	Rockland
Poughkeepsie, NY MSA.....	490	596	700	875	980	Westchester
Rochester, NY MSA.....	528	642	756	944	1060	Niagara
Syracuse, NY MSA.....	413	506	596	745	830	Orange
Utica-Rome, NY MSA.....	364	436	511	639	716	Dutchess
	334	405	477	596	668	Livingston, Mohrre, Ontario, Orleans, Wayne
						Madison, Onondaga, Oswego
						Herkimer, Oneida

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NEW YORK continued

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NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Allegany.....	314	373	440	550
Cattaraugus.....	308	372	440	550
Chenango.....	363	440	517	649
Columbia.....	344	418	493	618
Cortland.....	373	456	538	674
Essex.....	335	405	475	595
Fulton.....	298	364	427	536
Hamilton.....	334	405	475	595
Lewis.....	359	434	512	640
St Lawrence.....	341	413	488	610
Schuyler.....	344	418	493	618
Steuben.....	344	418	493	618
Tompkins.....	373	456	538	674
Wyoming.....	342	413	488	610

NORTH CAROLINA

METROPOLITAN STATISTICAL AREAS

EFF 1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
287	349	412	512	Buncombe
347	421	497	621	Alamance
319	385	453	566	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
294	414	432	559	Cumberland
299	366	428	538	Davidson, Davie, Forsyth, Guilford, Randolph, Stokes
262	317	375	469	Yadkin
270	331	390	490	Alexander, Burke, Catawba
344	418	494	617	Onslow
287	349	412	512	Durham, Franklin, Orange, Wake
				New Hanover

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Allegany.....	258	311	365	457
Ashe.....	288	348	410	511
Beaufort.....	286	348	410	511
Bladen.....	275	337	396	496
Caldwell.....	258	312	368	463
Carteret.....	267	326	384	483
Chatham.....	343	417	492	615
Chowan.....	275	331	387	480
Cleveland.....	299	363	427	534
Craven.....	295	358	422	532
Dare.....	275	331	387	480
Edgecombe.....	267	326	384	483
Anson.....	260	312	365	458
Avery.....	267	323	380	474
Bertie.....	286	348	410	511
Brunswick.....	259	315	371	466
Camden.....	275	331	387	480
Caswell.....	259	314	370	465
Cherokee.....	222	270	320	403
Clay.....	222	270	320	403
Columbus.....	269	329	388	486
Currituck.....	314	378	433	538
Duplin.....	244	294	346	431
Gates.....	275	331	387	480

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

For example,
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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

NORTH CAROLINA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Graham.....	222	270	320	403	451
Greene.....	268	325	381	480	536
Harnett.....	251	304	356	448	501
Henderson.....	280	344	405	506	567
Hoke.....	244	294	346	431	486
Iredell.....	259	400	467	538	602
Johnston.....	264	322	380	474	534
Lee.....	303	374	432	540	607
McDowell.....	270	330	388	487	543
Madison.....	280	344	405	506	567
Mitchell.....	267	323	380	474	521
Moore.....	260	312	365	458	511
Northampton.....	267	326	384	483	541
Pasquotank.....	275	331	387	480	536
Perquimans.....	275	331	387	480	536
Pitt.....	286	348	410	511	573
Richmond.....	260	312	365	458	511
Rockingham.....	259	314	370	465	520
Sampson.....	251	304	356	448	501
Stanly.....	270	330	388	486	542
Swain.....	222	270	320	403	451
Tyrrell.....	275	331	387	480	536
Warren.....	249	301	353	444	497
Watauga.....	368	444	520	651	714
Wilkes.....	309	371	436	546	598
Yancey.....	288	347	408	509	560

NORTH DAKOTA

METROPOLITAN STATISTICAL AREAS

Bismarck, ND MSA.....	335	407	479	599	672
Fargo-Moorhead, ND-MN MSA.....	335	407	478	600	672
Grand Forks, ND MSA.....	317	385	457	570	638

COUNTIES OF MSA/PMSA WITHIN STATE

Burlington, Morton	EFF	1 BR	2 BR	3 BR	4 BR
Cass	335	407	479	599	672
Grand Forks	317	385	457	570	638

NONMETROPOLITAN COUNTIES

Granville.....	EFF	1 BR	2 BR	3 BR	4 BR
Halifax.....	249	301	353	444	497
Haywood.....	267	326	384	483	541
Hertford.....	286	348	410	511	573
Hyde.....	275	331	387	480	536
Jackson.....	285	345	406	508	569
Jones.....	267	326	384	483	541
Lenoir.....	287	348	410	511	573
Mason.....	280	343	405	506	568
Martin.....	286	348	410	511	573
Montgomery.....	260	312	365	458	511
Nash.....	274	336	395	495	554
Pamlico.....	267	326	384	483	541
Pender.....	235	288	341	439	497
Person.....	249	301	353	444	497
Polk.....	270	330	388	487	543
Robeson.....	255	314	364	450	510
Rutherford.....	270	330	388	487	543
Scotland.....	230	279	331	413	464
Surry.....	246	297	349	437	491
Transylvania.....	280	344	405	506	567
Vance.....	249	301	353	444	497
Washington.....	275	331	387	480	536
Wayne.....	251	304	356	448	501
Wilson.....	274	336	395	495	554

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. The FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

For example,
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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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NORTH DAKOTA continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adams.....	281	344	407	509	568
Benson.....	290	352	415	520	585
Bottineau.....	281	344	407	509	568
Burke.....	281	344	407	509	568
Dickey.....	290	352	415	520	585
Dunn.....	281	344	407	509	568
Emmons.....	255	309	366	460	512
Golden Valley.....	281	344	407	509	568
Griggs.....	290	352	415	520	585
Kidder.....	255	309	366	460	512
Logan.....	290	352	415	520	585
McIntosh.....	290	352	415	520	585
McLean.....	255	309	366	460	512
Mountrail.....	281	344	407	509	568
Oliver.....	255	309	366	460	512
Pierce.....	281	344	407	509	568
Ransom.....	263	318	378	472	528
Richland.....	263	318	378	472	528
Sargent.....	263	318	378	472	528
Sioux.....	255	309	366	460	512
Stark.....	281	344	407	509	568
Stutsman.....	290	352	415	520	585
Trail.....	263	318	378	472	528
Ward.....	281	344	407	509	568
Williams.....	281	344	407	509	568

OHIO

METROPOLITAN STATISTICAL AREAS

	EFF	1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Akron, OH PMSA.....	333	405	480	600	671	Portage, Summit
Canton, OH MSA.....	287	348	410	513	578	Carrroll, Stark
Cincinnati, OH-KY-IN PMSA.....	342	415	489	611	684	Clermont, Hamilton, Warren
Cleveland, OH PMSA.....	353	429	505	632	707	Cuyahoga, Geauga, Lake, Medina
Columbus, OH MSA.....	327	393	468	584	657	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway
Dayton-Springfield, OH MSA.....	303	370	431	542	602	Union
Hamilton-Middletown, OH PMSA.....	342	419	491	615	689	Clark, Greene, Miami, Montgomery
Huntington-Ashland, WV-KY-OH MSA.....	320	389	460	575	647	Butler
Lima, OH MSA.....	304	370	435	546	613	Lawrence
Lorain-Elyria, OH PMSA.....	327	400	471	591	662	Allen, Auglaize
Mansfield, OH MSA.....	274	337	393	495	552	Lorain
						Richland

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

0 H I 0 continued

METROPOLITAN STATISTICAL AREAS										Counties of MSA/PMSA within STATE									
EFF	1	BR	2	BR	3	BR	4	BR		EFF	1	BR	2	BR	3	BR	4	BR	
PARKERSBURG-Marietta, WV-OH MSA.....										Washington									
300	364	428	539	602	Jefferson	299	365	428	537	600									
307	374	438	550	619	Staubenville-Weirton, OH-WV MSA.....	283	347	411	511	575									
348	425	502	626	702	Toledo, OH MSA.....	288	350	414	517	580									
302	368	433	542	606	Belmont	273	334	392	494	550									
304	370	435	546	613	Youngstown-Warren, OH MSA.....	308	374	440	550	618									
NONMETROPOLITAN COUNTIES										NONMETROPOLITAN COUNTIES									
270	326	381	475	536	Adams.....	299	365	428	537	600									
319	387	457	574	641	Ashtabula.....	283	347	411	511	575									
270	326	381	475	536	Brown.....	288	350	414	517	580									
274	336	395	496	552	Canton.....	283	342	405	506	568									
247	301	355	440	496	Coshocton.....	273	334	392	494	550									
274	336	395	496	552	Darke.....	308	374	440	550	618									
311	378	446	556	626	Erie.....	274	336	395	496	552									
297	362	425	535	598	Gallia.....	291	354	417	521	585									
292	355	418	522	587	Hancock.....	292	355	418	522	587									
273	334	392	494	550	Harrison.....	308	374	440	550	618									
270	326	381	475	536	Highland.....	263	319	376	470	529									
289	353	415	519	582	Holmes.....	273	334	392	494	550									
266	324	380	475	536	Jackson.....	266	324	380	475	536									
292	355	418	522	587	Logan.....	266	324	380	475	536									
263	319	376	470	529	Meigs.....	274	336	395	496	552									
294	359	422	531	592	Monroe.....	294	359	422	531	592									
266	324	380	475	536	Morrow.....	274	334	392	494	550									
294	359	422	531	592	Noble.....	311	378	446	556	626									
308	374	440	550	618	Paulding.....	263	319	376	470	529									
266	324	380	475	536	Pike.....	300	366	429	539	602									
297	362	425	535	598	Putnam.....	274	336	395	496	552									
311	378	446	556	626	Sandusky.....	266	324	380	475	536									
273	334	392	494	550	Seneca.....	296	359	423	530	592									
289	353	415	519	582	Tuscarawas.....	297	362	425	535	598									
297	362	425	535	598	Vinton.....	299	365	428	537	600									
308	374	440	550	618	Williams.....	273	334	392	494	550									

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

OKLAHOMA

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METROPOLITAN STATISTICAL AREAS

	EFF 1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Enid, OK MSA.....	329	402	473	593	Garfield
Fort Smith, AR-OK MSA.....	273	333	393	494	Sequoyah
Lawton, OK MSA.....	284	346	409	509	Comanche
Oklahoma City, OK MSA.....	308	375	440	552	Canadian, Cleveland, Logan, McClain, Oklahoma
Tulsa, OK MSA.....	277	337	396	495	Pottawatomie
				554	Creek, Osage, Rogers, Tulsa, Wagoner

	EFF 1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Adair.....	219	267	313	392	Alfalfa.....	248	303	356	444
Atoka.....	191	233	276	345	Beaver.....	248	303	356	444
Beckham.....	243	294	347	434	Blaine.....	248	303	356	444
Bryan.....	230	281	330	414	Caddo.....	229	279	327	412
Carter.....	230	281	330	414	Cherokee.....	219	267	313	392
Choctaw.....	191	233	276	345	Cimarron.....	248	303	356	444
Coal.....	191	233	276	345	Cotton.....	229	279	327	412
Craig.....	278	340	399	499	Custer.....	243	294	347	434
Delaware.....	217	264	310	387	Dewey.....	248	303	356	444
Ellis.....	248	303	356	444	Garvin.....	230	281	330	414
Grady.....	229	279	327	412	Grant.....	288	349	412	515
Greer.....	243	294	347	434	Harmon.....	243	294	347	434
Harper.....	248	303	356	444	Haskell.....	191	233	276	345
Hughes.....	223	272	318	401	Jackson.....	243	294	347	434
Jefferson.....	229	279	327	412	Johnston.....	230	281	330	414
Kay.....	288	349	412	515	Kingfisher.....	288	349	412	515
Kiowa.....	243	294	347	434	Latimer.....	191	233	276	345
Le Flore.....	191	233	276	345	Lincoln.....	275	334	393	492
Love.....	230	281	330	414	McCurtain.....	244	297	350	436
McIntosh.....	223	272	318	401	Major.....	248	303	356	444
Marshall.....	230	281	330	414	Mayes.....	289	350	414	517
Murray.....	230	281	330	414	Muskogee.....	223	272	318	401
Noble.....	228	279	327	412	Nowata.....	278	340	399	499
Okfuskee.....	223	272	318	401	Okmulgee.....	223	272	318	401
Ottawa.....	278	340	399	499	Pawnee.....	275	334	393	492
Payne.....	286	347	408	510	Pittsburg.....	191	233	276	345
Pontotoc.....	230	281	330	414	Pushmataha.....	191	233	276	345
Roger Mills.....	243	294	347	434	Seminole.....	228	278	327	407
Stephens.....	229	279	327	412	Texas.....	248	303	356	444
Tillman.....	229	279	327	412	Washington.....	278	340	399	499
Washita.....	243	294	347	434	Woods.....	248	303	356	444
Woodward.....	248	303	356	444					500

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

O R E G O N

METROPOLITAN STATISTICAL AREAS

	EFF 1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Eugene-Springfield, OR MSA.....	424	516	608	760 851	Lane
Medford, OR MSA.....	420	512	604	754 846	Jackson
Portland, OR MSA.....	358	435	512	640 717	Clackamas, Multnomah, Washington, Yamhill
Salem, OR MSA.....	394	483	568	710 795	Marion, Polk

NONMETROPOLITAN COUNTIES

NONMETROPOLITAN COUNTIES					EFF 1 BR	2 BR	3 BR	4 BR			
Baker.....	385	468	552	690	773	Benton.....	391	477	563	704	787
Clatsop.....	375	456	537	671	751	Columbia.....	375	456	537	671	751
Coos.....	403	489	577	721	808	Crook.....	408	495	584	733	817
Curry.....	403	489	577	721	808	Deschutes.....	408	495	584	733	817
Douglas.....	403	489	577	721	808	Gilliam.....	385	468	552	690	773
Grant.....	385	468	552	690	773	Harney.....	367	448	527	659	739
Hood River.....	408	495	584	733	817	Jefferson.....	408	495	584	733	817
Josephine.....	403	489	577	721	808	Klamath.....	367	448	527	659	739
Lake.....	367	448	527	659	739	Lincoln.....	375	456	537	671	751
Linn.....	391	477	563	704	787	Malheur.....	367	448	527	659	739
Morrow.....	385	468	552	690	773	Sherman.....	408	495	584	733	817
Tillamook.....	375	456	537	671	751	Umatilla.....	385	468	552	690	773
Union.....	385	468	552	690	773	Walla Walla.....	385	468	552	690	773
Wasco.....	408	495	584	733	817	Wheeler.....	385	468	552	690	773

P E N N S Y L V A N I A

METROPOLITAN STATISTICAL AREAS

	EFF 1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Allentown-Bethlehem-Easton, PA-NJ MSA.....	380	462	540	681 759	Carbon, Lehigh, Northampton
Altoona, PA MSA.....	338	409	484	603 678	Blair
Beaver County, PA PMSA.....	291	355	418	522 585	Beaver
Erie, PA MSA.....	388	473	556	698 781	Erie
Harrisburg-Lebanon-Carlisle, PA MSA.....	403	484	572	714 799	Cumberland, Dauphin, Lebanon, Perry
Johnstown, PA MSA.....	328	400	470	587 659	Cambria, Somerset
Lancaster, PA MSA.....	406	495	581	729 817	Lancaster
Philadelphia, PA-NJ PMSA.....	444	538	634	793 889	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pittsburgh, PA PMSA.....	318	386	454	568 636	Allegheny, Fayette, Washington, Westmoreland
Reading, PA MSA.....	380	463	545	681 764	Berks
Scranton-Wilkes-Barre, PA MSA.....	308	380	444	547 620	Columbia, Lackawanna, Luzerne, Wyoming
Monroe County.....	400	485	571	714 799	Monroe
Sharon, PA MSA.....	360	436	516	647 725	Mercer
State College, PA MSA.....	433	529	623	779 873	Centre
Williamsport, PA MSA.....	328	400	470	587 659	Lycoming
York, PA MSA.....	365	446	525	656 735	Adams, York

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

PENNSYLVANIA continued

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NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Armstrong.....	377	458	538	675 755
Bradford.....	312	380	447	559 626
Cameron.....	316	384	453	568 637
Clearfield.....	322	393	463	578 648
Crawford.....	320	386	459	573 643
Forest.....	308	377	443	553 621
Fulton.....	303	370	435	546 610
Huntingdon.....	303	370	435	546 610
Jefferson.....	322	393	463	578 648
Lawrence.....	320	386	459	573 643
Mifflin.....	313	381	458	563 628
Northumberland.....	337	393	463	578 648
Pofter.....	316	384	453	568 637
Snyder.....	313	381	448	563 628
Susquehanna.....	312	380	447	559 626
Union.....	362	425	524	650 708
Warren.....	320	386	459	573 643

RHODE ISLAND

METROPOLITAN STATISTICAL AREAS

	EFF 1 BR	2 BR	3 BR	4 BR
Fall River, MA-RI PMSA.....	433	517	620	718 792
New London-Norwich, CT-RI MSA.....	479	583	684	856 960
Pawtucket-Woonsocket-Attleboro, RI-MA PMSA.....	420	507	598	734 839
Providence, RI PMSA.....	457	555	653	818 916

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Bedford.....	303	370	435	546 610
Butler.....	375	455	535	672 751
Clarion.....	308	377	443	553 621
Clinton.....	316	382	449	563 628
Elk.....	316	384	453	568 637
Franklin.....	346	423	495	622 696
Greene.....	322	393	463	578 648
Indiana.....	377	458	538	675 755
Juniata.....	313	381	448	563 628
Mckean.....	316	384	453	568 637
Montour.....	322	393	463	578 648
Pike.....	448	546	641	801 898
Schuylkill.....	350	410	500	604 658
Sullivan.....	312	380	447	559 626
Tioga.....	312	380	447	559 626
Venango.....	308	377	443	553 621
Wayne.....	382	465	548	683 757

Components of MSA/PMSA within STATE

Newport county towns of Little Compton, Tiverton
 Washington county towns of Hopkinton, Westerly
 Providence county towns of Burrillville, Central Falls
 Cumberland, Lincoln, North Smithfield, Pawtucket
 Smithfield, Woonsocket
 Bristol county towns of Barrington, Bristol, Warren
 Kent county towns of Coventry, East Greenwich, Warwick
 West Warwick
 Newport county towns of Jamestown
 Providence county towns of Cranston, East Providence
 Foster, Glocester, Johnston, North Providence
 Providence, Scituate
 Washington county towns of Exeter, Narragansett
 North Kingstown, Richmond, South Kingstown

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

RHODE ISLAND continued

NONMETROPOLITAN COUNTIES

	EFF 1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Kent.....	397	482	568	711	West Greenwich
Newport.....	520	630	743	928	Middletown, Newport, Portsmouth
Washington.....	397	482	568	711	Charlestown, New Shoreham

SOUTH CAROLINA

METROPOLITAN STATISTICAL AREAS

Counties of MSA/PMSA within STATE

	EFF 1 BR	2 BR	3 BR	4 BR	
Anderson, SC MSA.....	260	315	371	466	Anderson
Augusta, GA-SC MSA.....	301	365	424	531	Aiken
Charleston, SC MSA.....	320	391	462	575	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC MSA.....	319	385	453	566	York
Columbia, SC MSA.....	325	396	467	584	Lexington, Richland

Florence, SC MSA.....	263	319	378	472	Florence
Greenville-Spartanburg, SC MSA.....	283	345	408	508	Greenville, Pickens, Spartanburg

NONMETROPOLITAN COUNTIES

NONMETROPOLITAN COUNTIES

	EFF 1 BR	2 BR	3 BR	4 BR	
Abbeville.....	227	276	327	406	450
Bamberg.....	235	290	341	427	477
Beaufort.....	294	357	422	528	592
Cherokee.....	227	275	325	408	460
Chesterfield.....	226	274	323	406	456
Colleton.....	294	357	422	528	592
Dillon.....	226	274	323	406	456
Fairfield.....	222	270	319	400	448
Greenwood.....	227	276	327	406	450
Horry.....	274	335	394	493	553
Kershaw.....	257	311	366	461	515
Laurens.....	227	276	327	406	450
McCormick.....	222	270	319	400	448
Marlboro.....	226	274	323	406	456
Oconee.....	279	343	404	505	566
Saluda.....	222	270	319	400	448
Union.....	227	275	325	408	460

Allendale.....	235	290	341	427	477
Barnwell.....	235	290	341	427	477
Calhoun.....	245	297	352	431	483
Chester.....	227	275	325	408	460
Clarendon.....	257	311	366	461	515
Darlington.....	226	274	323	406	456
Edgefield.....	222	270	319	400	448
Georgetown.....	274	335	394	493	553
Hampton.....	294	357	422	528	592
Jasper.....	294	357	422	528	592
Lancaster.....	246	300	353	437	489
Lee.....	257	311	366	461	515
Marion.....	226	274	323	406	456
Newberry.....	222	270	319	400	448
Orangeburg.....	235	290	341	427	477
Sumter.....	257	311	366	461	515
Williamsburg.....	274	335	394	493	553

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

S O U T H D A K O T A

METROPOLITAN STATISTICAL AREAS

EFF 1 BR 2 BR 3 BR 4 BR Counties of MSA/PMSA within STATE

Rapid City, SD MSA. 305 368 428 530 594 Pennington
 Sioux Falls, SD MSA. 321 391 459 577 645 Minnehaha

NONMETROPOLITAN COUNTIES

	EFF	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Aurora.....	274	331	387	485	544	Beadle.....	274	331	387	481	537
Bennett.....	249	302	356	446	499	Bon Homme.....	271	329	387	485	544
Brookings.....	269	325	379	472	533	Brown.....	293	354	415	520	582
Brule.....	271	329	387	485	544	Buffalo.....	249	302	356	446	499
Butte.....	296	360	423	531	594	Campbell.....	249	302	356	446	499
Charles Mix.....	271	329	387	485	544	Clark.....	243	291	347	432	479
Clay.....	271	329	387	485	544	Codington.....	269	325	379	472	533
Corson.....	249	302	356	446	499	Custer.....	296	360	423	531	594
Deuel.....	274	331	387	485	544	Day.....	261	321	378	474	530
Douglas.....	271	329	387	485	544	Dewey.....	249	302	356	446	499
Fall River.....	296	360	423	531	594	Edmunds.....	261	321	378	474	530
Grant.....	269	325	379	472	533	Faulk.....	261	321	378	474	530
Haakon.....	249	302	356	446	499	Gregory.....	249	302	356	446	499
Hand.....	274	331	387	481	537	Hamlin.....	243	291	347	432	479
Harding.....	296	360	423	531	594	Hanson.....	274	331	387	485	544
Hutchinson.....	271	329	387	485	544	Hughes.....	325	397	465	582	650
Jackson.....	249	302	356	446	499	Hyde.....	274	331	387	485	544
Jones.....	249	302	356	446	499	Jerauld.....	235	287	337	422	474
Lake.....	235	287	337	422	474	Kingsbury.....	303	360	423	531	594
Lincoln.....	274	331	387	485	544	Lawrence.....	249	302	356	446	499
McCook.....	235	287	337	422	474	Lyman.....	261	321	378	474	530
Marshall.....	261	321	378	474	530	McPherson.....	249	302	356	446	499
Mellette.....	249	302	356	446	499	Meade.....	261	321	378	474	530
Moody.....	235	287	337	422	474	Miner.....	305	368	428	531	594
Potter.....	249	302	356	446	499	Perkins.....	235	287	337	422	474
Sanborn.....	274	331	387	485	544	Roberts.....	249	302	356	446	499
Spink.....	261	321	378	474	530	Shannon.....	261	321	378	474	530
Sully.....	249	302	356	446	499	Stanley.....	249	302	356	446	499
Tripp.....	249	302	356	446	499	Todd.....	325	397	465	582	650
Union.....	271	329	387	485	544	Turner.....	249	302	356	446	499
Yankton.....	271	329	387	485	544	Walworth.....	274	331	387	485	544
						Ziebach.....	249	302	356	446	499
							249	302	356	446	499

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E N N E S S E E

METROPOLITAN STATISTICAL AREAS

EFF 1 BR 2 BR 3 BR 4 BR Counties of MSA/PMSA within STATE

Chattanooga, TN-GA MSA..... 320 390 460 575 647 Hamilton, Marion, Sequatchie
 Clarksville-Hopkinsville, TN-KY MSA..... 297 374 468 569 632 Montgomery
 Johnson, TN MSA..... 292 350 416 519 585 Madison
 Johnson City-Kingsport-Bristol, TN-VA MSA..... 268 327 384 481 540 Carter, Hawkins, Sullivan, Unicoi, Washington
 Knoxville, TN MSA..... 296 360 423 531 595 Anderson, Blount, Grainger, Jefferson, Knox, Sevier
 Union

Memphis, TN-AR-MS MSA..... 316 383 451 562 629 Shelby, Tipton
 Nashville, TN MSA..... 351 429 505 631 709 Cheatham, Davidson, Dickson, Robertson, Rutherford
 Sumner, Williamson, Wilson

NONMETROPOLITAN COUNTIES EFF 1 BR 2 BR 3 BR 4 BR

Bedford..... 252 316 359 448 504
 Bledsoe..... 262 319 377 471 528
 Campbell..... 214 260 309 384 428
 Carroll..... 235 288 340 426 475
 Claiborne..... 214 260 309 384 428

Cocke..... 237 291 341 428 478
 Crockett..... 243 293 344 432 485
 Decatur..... 258 315 371 465 520
 Dyer..... 243 293 344 432 485
 Fentress..... 235 291 343 428 479

Gibson..... 243 293 344 432 485
 Greene..... 233 286 335 419 471
 Hamblen..... 249 301 356 445 499
 Hardeman..... 258 315 371 465 520
 Haywood..... 248 310 354 444 497

Henry..... 235 288 340 426 475
 Houston..... 218 264 312 390 437
 Jackson..... 205 253 299 375 416
 Lake..... 243 293 344 432 485
 Lawrence..... 252 316 359 448 504

Lincoln..... 285 343 404 506 565
 McMinn..... 262 319 377 471 528
 Macon..... 235 291 343 428 479
 Maury..... 252 316 359 448 504
 Monroe..... 252 310 363 454 508

Morgan..... 214 260 309 384 428
 Overton..... 235 291 343 428 479
 Pickett..... 235 291 343 428 479
 Putnam..... 245 296 348 437 489
 Roane..... 252 310 363 454 508

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.
 The FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

For example,
 O41492

NONMETROPOLITAN COUNTIES EFF 1 BR 2 BR 3 BR 4 BR

Benton..... 235 288 340 426 475
 Bradley..... 262 319 377 471 528
 Cannon..... 235 291 343 428 479
 Chester..... 258 315 371 465 520
 Clay..... 205 253 299 375 416

Coffee..... 252 316 359 448 504
 Cumberland..... 235 291 343 428 479
 De Kalb..... 235 291 343 428 479
 Fayette..... 248 301 354 444 497
 Franklin..... 285 343 404 506 565

Giles..... 252 316 359 448 504
 Grundy..... 262 319 377 471 528
 Hancock..... 233 286 335 419 471
 Hardin..... 258 315 371 465 520
 Henderson..... 258 315 371 465 520

Hickman..... 252 316 359 448 504
 Humphreys..... 218 264 312 390 437
 Johnson..... 227 277 326 409 458
 Lauderdale..... 248 310 354 444 497
 Lewis..... 250 304 358 448 504

Loudon..... 252 310 363 454 508
 McNairy..... 258 315 371 465 520
 Marshall..... 252 316 359 448 504
 Meigs..... 262 319 377 471 528
 Moore..... 252 316 359 448 504

Obion..... 246 301 344 435 485
 Perry..... 250 304 358 448 504
 Polk..... 262 319 377 471 528
 Rhea..... 262 319 377 471 528
 Scott..... 214 260 309 384 428

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

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T E N E S S E E continued

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Smith.....	235	291	343	428 479
Trousdale.....	235	291	343	428 479
Warren.....	245	296	348	437 489
Weakley.....	235	288	340	426 475

T E X A S

METROPOLITAN STATISTICAL AREAS

Abilene, TX MSA.....	256	310	365	456 511
Amarillo, TX MSA.....	296	359	424	530 594
Austin, TX MSA.....	380	457	538	623 753
Beaumont-Port Arthur, TX MSA.....	342	414	489	611 683
Brazoria, TX PMSA.....	369	447	527	659 738
Brownsville-Harlingen, TX MSA.....	302	367	431	540 605
Bryan-College Station, TX MSA.....	400	489	572	716 804
Corpus Christi, TX MSA.....	349	423	499	625 701
Dallas, TX PMSA.....	398	485	571	713 798
El Paso, TX MSA.....	324	394	463	579 658
Fort Worth-Arlington, TX PMSA.....	371	451	532	665 745
Galveston-Texas City, TX PMSA.....	332	402	474	593 665
Houston, TX PMSA.....	341	414	488	612 685
Killeen-Temple, TX MSA.....	270	328	386	483 540
Laredo, TX MSA.....	277	339	397	498 559
Longview-Marshall, TX MSA.....	337	409	480	599 673
Lubbock, TX MSA.....	250	313	411	521 574
McAllen-Edinburg-Mission, TX MSA.....	301	366	429	538 603
Midland, TX MSA.....	385	469	553	693 775
Odessa, TX MSA.....	383	467	550	686 770
San Angelo, TX MSA.....	271	329	387	484 542
San Antonio, TX MSA.....	331	402	473	591 662
Sherman-Denison, TX MSA.....	295	357	422	528 592
Texarkana, TX-Texarkana, AR MSA.....	271	329	389	489 545
Tyler, TX MSA.....	341	413	488	609 681
Victoria, TX MSA.....	415	503	593	744 833
Waco, TX MSA.....	280	337	394	492 547
Wichita Falls, TX MSA.....	306	372	438	547 614

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Stewart.....	218	264	312	390 437
Van Buren.....	245	296	348	437 489
Wayne.....	250	304	358	448 504
White.....	245	296	348	437 489

COUNTIES OF MSA/PMSA WITHIN STATE

Taylor	511
Potter, Randall	594
Hays, Travis, Williamson	753
Hardin, Jefferson, Orange	683
Brazoria	738
Cameron	605
Brazos	804
Nueces, San Patricio	701
Collin, Dallas, Denton, Ellis, Kaufman, Rockwall	798
El Paso	658
Johnson, Parker, Tarrant	745
Galveston	665
Fort Bend, Harris, Liberty, Montgomery, Waller	685
Bell, Coryell	540
Webb	559
Gregg, Harrison	673
Lubbock	574
Hidalgo	603
Midland	775
Ector	770
Tom Green	542
Bexar, Comal, Guadalupe	591
Grayson	592
Bowie	545
Smith	681
Victoria	833
McLennan	547
Wichita	614

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom; the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. For example, Q41492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Anderson.....	254	308	364	455	510
Angelina.....	296	357	423	530	592
Archer.....	244	297	349	437	490
Atascosa.....	260	316	375	470	525
Bailey.....	246	301	354	440	491
Bastrop.....	258	313	370	465	521
Bee.....	281	343	404	502	564
Borden.....	237	293	344	429	483
Brewster.....	218	263	309	387	436
Brooks.....	281	343	404	502	564
Burleson.....	260	315	373	467	523
Caldwell.....	258	313	370	465	521
Callahan.....	252	306	358	450	505
Carson.....	264	320	378	474	532
Castro.....	264	320	378	474	532
Cherokee.....	254	308	364	455	510
Clay.....	244	297	349	437	490
Coke.....	227	277	325	409	457
Collingsworth.....	264	320	378	474	532
Comanche.....	252	306	358	450	505
Cooke.....	279	341	402	500	562
Crane.....	218	263	309	387	436
Crosby.....	246	301	354	440	491
Dallam.....	264	320	378	474	532
Deaf Smith.....	264	320	378	474	532
De Witt.....	274	335	393	492	552
Dimmit.....	234	289	340	423	474
Duval.....	281	343	404	502	564
Edwards.....	243	297	348	428	476
Falls.....	223	272	317	402	447
Fayette.....	258	313	370	465	521
Floyd.....	246	301	354	440	491
Franklin.....	249	303	356	445	498
Frio.....	260	316	375	470	525
Garza.....	246	301	354	440	491
Glasscock.....	237	293	344	429	483
Gonzales.....	274	335	393	492	552
Grimes.....	260	315	373	467	523
Hall.....	264	320	378	474	532
Hansford.....	264	320	378	474	532

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. The FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Andrews.....	218	263	309	387	436
Aransas.....	281	343	404	502	564
Armstrong.....	264	320	378	474	532
Austin.....	301	365	429	538	604
Bandera.....	260	316	375	470	525
Baylor.....	244	297	349	437	490
Blanco.....	237	293	344	429	484
Bosque.....	223	272	317	402	447
Briscoe.....	264	320	378	474	532
Brown.....	246	301	354	440	491
Burnet.....	237	293	344	429	484
Calhoun.....	274	335	393	492	552
Camp.....	232	283	337	418	470
Cass.....	249	303	356	445	498
Chambers.....	310	377	444	556	622
Childress.....	244	297	349	437	490
Cochran.....	246	301	354	440	491
Coleman.....	246	301	354	440	491
Colorado.....	301	365	429	538	604
Concho.....	227	277	325	409	457
Cottle.....	244	297	349	437	490
Crockett.....	227	277	325	409	457
Culberson.....	218	263	309	387	436
Dawson.....	237	293	344	429	483
Delta.....	249	303	356	445	498
Dickens.....	246	301	354	440	491
Donley.....	264	320	378	474	532
Eastland.....	252	306	358	450	505
Erath.....	252	306	358	450	505
Fannin.....	279	341	402	500	562
Fisher.....	252	306	358	450	505
Foard.....	244	297	349	437	490
Freestone.....	223	272	317	402	447
Gaines.....	218	263	309	387	436
Gillespie.....	260	316	375	470	525
Goliad.....	274	335	393	492	552
Gray.....	264	320	378	474	532
Hale.....	246	301	354	440	491
Hamilton.....	237	293	344	429	484
Hardeman.....	244	297	349	437	490

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. The FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

For example.
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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

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NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Hartley.....	264	320	378	474	532
Hemphill.....	264	320	378	474	532
Hill.....	277	334	390	490	548
Hood.....	301	365	429	538	604
Houston.....	263	318	377	473	531
Hudspeth.....	218	263	309	387	436
Hutchinson.....	218	263	309	387	436
Jack.....	244	297	349	437	490
Jasper.....	281	343	404	502	564
Jim Hogg.....	266	322	381	480	536
Jones.....	252	306	358	450	505
Kendall.....	260	316	375	470	525
Kent.....	252	306	358	450	505
Kimble.....	227	277	325	409	457
Kinney.....	243	297	348	428	476
Knox.....	246	301	354	440	491
Lamb.....	246	301	354	440	491
La Salle.....	234	289	340	423	474
Lee.....	268	313	370	465	521
Limestone.....	223	272	317	402	447
Live Oak.....	281	343	404	502	564
Loving.....	218	263	309	387	436
Mcculloch.....	246	301	354	440	491
Madison.....	268	325	384	483	539
Martin.....	237	293	344	429	483
Matagorda.....	301	365	429	538	604
Medina.....	260	316	375	470	525
Millam.....	258	313	370	465	521
Mitchell.....	252	306	358	450	505
Moore.....	264	320	378	474	532
Motley.....	246	301	354	440	491
Navarro.....	223	272	317	402	447
Nolan.....	252	306	358	450	505
Oldham.....	264	320	378	474	532
Panola.....	254	308	364	455	510
Pecos.....	218	263	309	387	436
Presidio.....	218	263	309	387	436
Reagan.....	227	277	325	409	457
Red River.....	249	303	356	445	498
Refugio.....	281	343	404	502	564

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

For example,
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NONMETROPOLITAN COUNTIES

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Haskell.....	252	306	358	450	505
Henderson.....	254	308	364	455	510
Hockley.....	246	301	354	440	491
Hopkins.....	249	303	356	445	498
Howard.....	237	293	344	429	483
Hunt.....	279	341	402	500	562
Irion.....	227	277	325	409	457
Jackson.....	274	335	393	492	552
Jeff Davis.....	218	263	309	387	436
Jim Wells.....	281	343	404	502	564
Karles.....	215	260	307	384	430
Kenedy.....	281	343	404	502	564
Kerr.....	260	316	375	470	525
King.....	246	301	354	440	491
Kleberg.....	281	343	404	502	564
Lamar.....	249	303	356	445	498
Lampasas.....	237	293	344	429	484
Lauaca.....	274	335	393	492	552
Leon.....	268	325	384	483	539
Lipscomb.....	264	320	378	474	532
Llano.....	237	293	344	429	484
Lynn.....	246	301	354	440	491
McMullen.....	281	343	404	502	564
Marion.....	232	283	337	418	470
Mason.....	227	277	325	409	457
Maverick.....	243	297	348	428	476
Menard.....	227	277	325	409	457
Mills.....	246	301	354	440	491
Montague.....	244	297	349	437	490
Morris.....	249	303	356	445	498
Nacogdoches.....	296	357	423	530	592
Newton.....	281	343	404	502	564
Ochiltree.....	264	320	378	474	532
Palo Pinto.....	252	306	358	450	505
Parmer.....	264	320	378	474	532
Polk.....	296	357	423	530	592
Rains.....	242	296	346	427	472
Real.....	243	297	348	428	476
Reeves.....	218	263	309	387	436
Roberts.....	264	320	378	474	532

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Robertson.....	260	315	373	467	Runnels.....	246	301	354	440
Rusk.....	254	308	364	455	Sabine.....	231	283	335	418
San Augustine.....	231	283	335	418	San Jacinto.....	296	357	423	530
San Saba.....	246	301	354	440	Schleicher.....	227	277	325	409
Scurry.....	252	306	358	450	Shackelford.....	252	306	358	450
Shelby.....	231	283	335	418	Sherman.....	264	320	378	474
Somervell.....	223	272	317	402	Star.....	231	282	334	415
Stephens.....	252	306	358	450	Sterling.....	227	277	325	409
Stonewall.....	252	306	358	450	Sutton.....	227	277	325	409
Swisher.....	264	320	378	474	Terrell.....	218	263	309	387
Terry.....	246	301	354	440	Throckmorton.....	252	306	358	450
Titus.....	249	303	356	445	Trinity.....	268	340	401	498
Tyler.....	268	325	384	483	Uphur.....	232	283	337	418
Upton.....	237	293	344	429	Uvalde.....	243	297	348	428
Val Verde.....	243	297	348	428	Van Zandt.....	242	296	346	427
Walker.....	306	373	440	551	Ward.....	218	263	309	387
Washington.....	268	325	384	483	Wharton.....	301	365	429	538
Wheeler.....	264	320	378	474	Wilbarger.....	244	297	349	437
Willacy.....	281	343	404	502	Wilson.....	215	260	307	384
Winkler.....	218	263	309	387	Wise.....	301	365	429	538
Wood.....	232	283	337	418	Yoakum.....	246	301	354	440
Young.....	244	297	349	437	Zapata.....	231	282	334	415
Zavala.....	243	297	348	428					

U T A H

METROPOLITAN STATISTICAL AREAS

Provo-Orem, UT MSA.....	EFF 1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE	EFF 1 BR	2 BR	3 BR	4 BR
Salt Lake City-Ogden, UT MSA.....	323	394	462	579	Utah	323	394	462	579
	293	355	418	523	Davis, Salt Lake, Weber	293	355	418	523
NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Beaver.....	355	432	509	635	Box Elder.....	326	396	468	585
Cache.....	326	396	468	585	Carbon.....	405	492	579	724
Daggett.....	405	492	579	724	Duchesne.....	405	492	579	724
Emery.....	405	492	579	724	Garfield.....	355	432	509	635
Grand.....	405	492	579	724	Iron.....	355	432	509	635
Juab.....	355	432	509	635	Kane.....	355	432	509	635
Millard.....	355	432	509	635	Morgan.....	405	492	579	724
Piute.....	355	432	509	635	Rich.....	326	396	468	585
San Juan.....	405	492	579	724	Sanpete.....	355	432	509	635

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

For example,
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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

U T A H continued

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NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Sevier.....	355	432	509	635
Tooele.....	326	396	468	585
Wasatch.....	405	492	579	724
Wayne.....	355	432	509	635

V E R M O N T

METROPOLITAN STATISTICAL AREAS

EFF 1 BR	2 BR	3 BR	4 BR
Burlington, VT MSA.....	479	583	684

Components of MSA/PMSA within STATE

Chittenden county towns of Burlington, Charlotte Colchester, Essex, Hinesburg, Jericho, Milton, Richmond St. George, Shelburne, South Burlington, Williston Windsor

Franklin county towns of Georgia

Grand Isle county towns of Grand Isle, South Hero

NONMETROPOLITAN COUNTIES

Towns within non metropolitan counties

EFF 1 BR	2 BR	3 BR	4 BR
Addison.....	381	462	545
Bennington.....	387	476	558
Caledonia.....	325	394	463
Chittenden.....	439	537	631
Essex.....	325	394	463

Franklin.....

Bolton, Buels, Huntington, Underhill, Westford
Bakersfield, Berkshire, Enosburg, Fairfax, Fairfield Fletcher, Franklin, Highgate, Montgomery, Richmond St. Albans, St. Albans, Sheldon, Swanton Alburg, Isle La Motte, North Hero

EFF 1 BR	2 BR	3 BR	4 BR
Grand Isle.....	325	394	463
Lamoille.....	393	477	560
Orange.....	387	472	555
Orleans.....	325	394	463
Rutland.....	421	512	602
Washington.....	387	476	558
Windham.....	407	496	582
Windsor.....	417	505	596

V I R G I N I A

METROPOLITAN STATISTICAL AREAS

Counties of MSA/PMSA within STATE

EFF 1 BR	2 BR	3 BR	4 BR
Charlottesville, VA MSA.....	376	458	539
Danville, VA MSA.....	288	349	412
Johnson City-Kingsport-Bristol, TN-VA MSA.....	268	327	384
Lynchburg, VA MSA.....	310	385	444
Norfolk-Virginia Beach-Newport News, VA MSA.....	385	468	550

Albemarle, Fluvanna, Greene, Charlottesville
Pittsylvania, Danville
Scott, Washington, Bristol
Amherst, Campbell, Lynchburg
Gloucester, James City, York, Chesapeake, Hampton Newport News City, Norfolk, Poquoson, Portsmouth, Suffolk

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

VIRGINIA continued

METROPOLITAN-STATISTICAL AREAS

EFF 1 BR 2 BR 3 BR 4 BR Counties of MSA/PMSA within STATE

Richmond-Petersburg, VA MSA.....	344	414	482	605	679	Virginia Beach, Williamsburg City
Roanoke, VA MSA.....	302	368	431	541	605	Charles City, Chesterfield, Dinwiddie, Goochland, Hanover
Washington, DC-MD-VA MSA.....	597	725	854	1067	1195	Henrico, New Kent, Powhatan, Prince George
						Colonial Heights, Hopewell, Petersburg, Richmond
						Botetourt, Roanoke, Roanoke, Salem
						Arlington, Fairfax, Loudoun, Prince William, Stafford
						Alexandria, Fairfax, Falls Church City, Manassas
						Manassas Park City

NONMETROPOLITAN COUNTIES EFF 1 BR 2 BR 3 BR 4 BR

NONMETROPOLITAN COUNTIES EFF 1 BR 2 BR 3 BR 4 BR

Accomack.....	283	342	398	492	549	Allegheny.....	300	364	429	537	601
Amelia.....	249	301	353	444	499	Appomattox.....	303	364	426	534	598
Augusta.....	300	364	429	537	601	Bath.....	300	364	429	537	601
Bedford.....	258	314	372	464	520	Bland.....	253	307	361	454	507
Brunswick.....	234	285	334	420	470	Buchanan.....	287	348	410	513	576
Buckingham.....	249	301	353	444	499	Caroline.....	353	431	507	632	712
Carroll.....	253	307	361	454	507	Charlotte.....	249	301	353	444	499
Clarke.....	301	367	430	539	603	Craig.....	234	285	334	418	469
Culpeper.....	312	379	448	559	626	Cumberland.....	249	301	353	444	499
Dickenson.....	267	311	369	461	515	Essex.....	271	332	392	491	549
Fauquier.....	312	379	448	559	626	Floyd.....	299	363	426	534	598
Franklin.....	258	314	372	464	520	Frederick.....	301	367	430	539	603
Giles.....	299	363	426	534	598	Grayson.....	253	307	361	454	507
Greensville.....	234	285	334	420	470	Hallifax.....	249	301	353	444	499
Henry.....	301	367	430	538	602	Highland.....	300	364	429	537	601
Isle Of Wight.....	241	296	343	429	470	King And Queen.....	271	332	392	491	549
King George.....	353	431	507	632	712	King William.....	271	332	392	491	549
Lancaster.....	271	332	392	491	549	Lee.....	256	311	369	461	515
Louisa.....	316	382	448	559	626	Lunenburg.....	249	301	353	444	499
Madison.....	316	382	448	559	626	Mathews.....	271	332	392	491	549
Mecklenburg.....	234	285	334	420	470	Middlesex.....	271	332	392	491	549
Montgomery.....	364	442	520	654	728	Nelson.....	262	318	376	470	527
Northampton.....	283	342	398	492	549	Northumberland.....	271	332	392	491	549
Nottoway.....	249	301	353	444	499	Orange.....	316	382	448	559	626
Page.....	301	367	430	539	603	Patrick.....	258	314	372	464	520
Prince Edward.....	249	301	353	444	499	Pulaski.....	299	363	426	534	598
Rappahannock.....	312	379	448	559	626	Richmond.....	271	332	392	491	549
Rockbridge.....	300	364	429	537	601	Rockingham.....	300	364	429	537	601
Russell.....	287	348	410	513	576	Shenandoah.....	301	367	430	539	603
Smyth.....	253	307	361	454	507	Southampton.....	241	296	343	429	470
Spotsylvania.....	353	431	507	632	712	Surry.....	241	296	343	429	470

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example 041492

the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

VIRGINIA continued

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NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Sussex.....	234	285	334	420	470
Warren.....	301	367	430	539	603
Wise.....	289	349	412	515	578
Bedford.....	258	314	372	464	520
Clifton Forge City.....	300	364	429	537	601
Emporia.....	234	285	334	420	470
Fredericksburg.....	418	508	598	748	838
Harrisonburg City.....	344	417	492	614	687
Martinsville City.....	301	367	430	538	602
Radford.....	364	442	520	654	728
Staunton.....	300	364	429	537	601
Winchester.....	365	443	522	652	730

WASHINGTON

METROPOLITAN STATISTICAL AREAS

Counties of MSA/PMSA within STATE	EFF	1 BR	2 BR	3 BR	4 BR
Bellingham, WA MSA.....	431	526	619	792	870
Bremerton, WA MSA.....	403	490	576	718	808
Olympia, WA MSA.....	416	505	595	745	836
Richland-Kennewick-Pasco, WA MSA.....	333	406	477	596	667
Seattle, WA PMSA.....	441	536	630	788	882
Spokane, WA MSA.....	364	425	501	641	708
Tacoma, WA PMSA.....	373	453	535	713	793
Vancouver, WA PMSA.....	365	444	522	653	731
Yakima, WA MSA.....	366	444	523	655	735

NONMETROPOLITAN COUNTIES

EFF	1 BR	2 BR	3 BR	4 BR
Adams.....	296	361	424	533
Chelan.....	359	435	515	642
Columbia.....	385	467	552	689
Douglas.....	359	435	515	642
Garfield.....	385	467	552	689
Grays Harbor.....	387	470	555	693
Jefferson.....	387	470	555	693
Klickitat.....	360	437	515	646
Lincoln.....	296	361	424	533
Okanogan.....	328	396	469	588
Pend Oreille.....	296	361	424	533
Skagit.....	393	482	566	708
Stevens.....	296	361	424	533

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. Q41492

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Tazewell.....	287	348	410	513	576
Westmoreland.....	271	332	392	491	549
Wythe.....	273	333	386	478	535
Buena Vista.....	300	364	429	537	601
Covington.....	300	364	429	537	601
Franklin.....	234	285	334	420	470
Galax.....	253	307	361	454	507
Lexington.....	300	364	429	537	601
Norton.....	288	348	411	514	577
South Boston City.....	249	301	353	444	499
Waynesboro.....	300	364	429	537	601

COUNTIES OF MSA/PMSA WITHIN STATE

EFF	1 BR	2 BR	3 BR	4 BR
Whatcom	431	526	619	792
Kitsap	403	490	576	718
Thurston	416	505	595	745
Benton, Franklin	333	406	477	596
King, Snohomish	441	536	630	788
Spokane	364	425	501	641
Pierce	373	453	535	713
Clark	365	444	522	653
Yakima	366	444	523	655

NONMETROPOLITAN COUNTIES

EFF	1 BR	2 BR	3 BR	4 BR
Asotin.....	385	467	552	689
Clallam.....	387	470	555	693
Cowlitz.....	300	365	429	536
Ferry.....	296	361	424	533
Grant.....	296	361	424	533
Island.....	393	482	566	708
Kittitas.....	328	396	469	588
Lewis.....	360	437	515	646
Mason.....	387	470	555	693
Pacific.....	387	470	555	693
San Juan.....	393	482	566	708
Skamania.....	360	437	515	646
Wahkiakum.....	360	437	515	646

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

WASHINGTON continued

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Walla Walla.....	385	467	552	689 773

WEST VIRGINIA

METROPOLITAN STATISTICAL AREAS

Counties of MSA/PMSA within STATE	EFF 1 BR	2 BR	3 BR	4 BR
Charleston, WV MSA.....	389	473	558	698 782 Kanawha, Putnam
Cumberland, MD-WV MSA.....	294	350	411	507 566 Mineral
Huntington-Ashland, WV-KY-OH MSA.....	320	389	460	575 647 Cabell, Wayne
Parkersburg-Marietta, WV-OH MSA.....	300	364	428	539 602 Wood
Steubenville-Weirton, OH-WV MSA.....	307	374	438	550 619 Brooke, Hancock
Wheeling, WV-OH MSA.....	302	368	433	542 606 Marshall, Ohio

NONMETROPOLITAN COUNTIES

EFF 1 BR	2 BR	3 BR	4 BR
Barbour.....	278	338	399 500 558
Boone.....	277	335	396 496 555
Calhoun.....	321	377	437 569 627
Doddridge.....	270	331	391 488 547
Gilmer.....	297	355	432 535 590
Greenbrier.....	255	310	367 457 513
Hardy.....	266	325	382 478 537
Jackson.....	321	377	437 569 627
Lewis.....	278	338	399 500 558
Logan.....	267	325	382 478 537
Marion.....	329	400	470 590 659
Mercer.....	261	319	377 471 529
Monongalia.....	329	400	470 590 659
Morgan.....	281	342	402 502 562
Pendleton.....	266	325	382 478 537
Pocahontas.....	255	310	367 457 513
Raleigh.....	267	321	372 464 521
Ritchie.....	235	286	335 418 470
Summers.....	267	321	377 471 529
Tucker.....	278	338	399 500 558
Upshur.....	278	338	399 500 558
Wetzel.....	281	342	403 504 564
Wyoming.....	267	321	372 464 521

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

WISCONSIN

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METROPOLITAN STATISTICAL AREAS

	EFF 1 BR	2 BR	3 BR	4 BR	Counties of MSA/PMSA within STATE
Appleton-Oshkosh-Neenah, WI MSA.....	300	432	539	603	Calumet, Outagamie, Winnebago
Duluth, MN-WI MSA.....	331	395	466	557	Douglas
Eau Claire, WI MSA.....	297	363	429	534	Chippewa, Eau Claire
Green Bay, WI MSA.....	300	365	434	539	Brown
Janesville-Beloit, WI MSA.....	331	404	476	596	Rock
Kenosha, WI PMSA.....	383	467	549	688	Kenosha
La Crosse, WI MSA.....	356	432	508	635	La Crosse
Madison, WI MSA.....	356	434	518	628	Dane
Milwaukee, WI PMSA.....	359	433	513	642	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul, MN-WI MSA.....	440	535	630	788	St Croix
Racine, WI PMSA.....	339	412	485	607	Racine
Sheboygan, WI MSA.....	308	372	440	552	Sheboygan
Wausau, WI MSA.....	300	365	432	539	Marathon

NONMETROPOLITAN COUNTIES

	EFF 1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Adams.....	304	368	435	546	Ashland.....	266	325	383	480
Barron.....	289	354	415	520	Bayfield.....	266	325	383	480
Buffalo.....	275	332	394	491	Burnett.....	266	325	383	480
Clark.....	289	354	415	520	Columbia.....	278	335	397	496
Crawford.....	261	320	374	470	Dodge.....	278	335	397	496
Door.....	274	329	389	480	Dunn.....	289	354	415	520
Florence.....	261	320	374	470	Fond Du Lac.....	327	395	449	559
Forest.....	283	344	404	510	Grant.....	274	331	392	489
Green.....	283	344	402	501	Green Lake.....	297	363	429	535
Iowa.....	274	331	392	489	Iron.....	266	325	383	480
Jackson.....	275	332	394	491	Jefferson.....	318	387	454	567
Juneau.....	304	368	435	546	Kewaunee.....	274	329	389	480
Lafayette.....	274	331	392	489	Langlade.....	283	344	404	510
Lincoln.....	283	344	404	510	Manitowoc.....	274	329	389	480
Marquette.....	266	322	376	472	Marquette.....	266	325	383	480
Menominee.....	266	325	383	480	Monroe.....	275	332	394	491
Oconto.....	261	320	374	470	Oneida.....	283	344	404	510
Pepin.....	275	332	394	491	Pierce.....	275	332	394	491
Polk.....	289	354	415	520	Portage.....	304	368	435	546
Price.....	266	325	383	480	Richland.....	274	331	392	489
Rusk.....	266	325	383	480	Sauk.....	303	369	435	545
Sawyer.....	266	325	383	480	Shawano.....	266	325	383	480
Taylor.....	266	325	383	480	Trempealeau.....	275	332	394	491
Vernon.....	261	320	374	470	Vilas.....	283	344	404	510
Walworth.....	318	387	454	567	Washburn.....	266	325	383	480

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4 BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

W I S C O N S I N continued

NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Waupaca.....	266	325	383	480 536
Wood.....	304	368	435	546 612

W Y O M I N G

METROPOLITAN STATISTICAL AREAS

Casper, WY MSA.....	454	551	647	812 910
Cheyenne, WY MSA.....	374	454	537	673 752

NONMETROPOLITAN COUNTIES

EFF 1 BR	2 BR	3 BR	4 BR
Albany.....	289	357	421 526 584
Campbell.....	289	357	421 526 584
Converse.....	289	357	421 526 584
Fremont.....	289	357	421 526 584
Hot Springs.....	297	362	428 532 596
Lincoln.....	289	357	421 526 584
Park.....	297	362	428 532 596
Sheridan.....	400	492	579 721 813
Sweetwater.....	289	357	421 526 584
Uinta.....	289	357	421 526 584

NOT IN LIST OF COUNTIES

Weston.....	297	362	428 532 596
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G U A M

NONMETROPOLITAN COUNTIES

Pacific Isl.....	536	644	762 954 1073
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P U E R T O R I C O

METROPOLITAN STATISTICAL AREAS

Aguadilla, PR MSA.....	225	275	325 405 455
Arecibo, PR MSA.....	330	400	470 590 660
Caguas, PR MSA.....	275	330	390 490 545
Mayaguez, PR MSA.....	225	275	325 405 455
Ponce, PR MSA.....	320	390	460 575 645

San Juan, PR PMSA.....

320	390	460 575 645
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NONMETROPOLITAN COUNTIES	EFF 1 BR	2 BR	3 BR	4 BR
Waushara.....	266	325	383	480 536

Counties of MSA/PMSA within STATE

EFF 1 BR	2 BR	3 BR	4 BR
Big Horn.....	297	362	428 532 596
Carbon.....	289	357	421 526 584
Crook.....	289	362	428 532 596
Goshen.....	289	357	421 526 584
Johnson.....	289	357	421 526 584
Niobrara.....	289	357	421 526 584
Platte.....	289	357	421 526 584
Sublette.....	289	357	421 526 584
Teton.....	382	460	544 683 766
Washakie.....	297	362	428 532 596

NONMETROPOLITAN COUNTIES

EFF 1 BR	2 BR	3 BR	4 BR
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Counties of MSA/PMSA within STATE

EFF 1 BR	2 BR	3 BR	4 BR
Aguada, Aguadilla, Isabela, Moca	225	275	325 405 455
Arecibo, Camuy, Hatillo, Quebradillas	330	400	470 590 660
Aguas Buenas, Caguas, Cayey, Cidra, Gurabo, San Lorenzo	275	330	390 490 545
Anasco, Cabo Rojo, Hormigueros, Mayaguez, San German	225	275	325 405 455
Juana Diaz, Ponce	320	390	460 575 645
Bayamon, Barceloneta, Canovanas, Carolina, Catano	320	390	460 575 645
Corozal, Dorado, Fajardo, Guaynabo, Humacao	320	390	460 575 645
Juncos, Las Piedras, Loiza, Luquillo, Manati, Naranjito	320	390	460 575 645
Rio Grande, San Juan, Toa Alta, Toa Baja, Trujillo Alto	320	390	460 575 645
Vega Alta, Vega Baja	320	390	460 575 645

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

P U E R T O R I C O continued

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NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Adjuntas.....	215	265	310	390	435
Arroyo.....	215	265	310	390	435
Ceiba.....	215	265	310	390	435
Coamo.....	215	265	310	390	435
Culebra.....	215	265	310	390	435
Guayama.....	215	265	310	390	435
Jayuya.....	215	265	310	390	435
Lares.....	215	265	310	390	435
Maricao.....	215	265	310	390	435
Morovis.....	215	265	310	390	435
Orocovis.....	215	265	310	390	435
Penuelas.....	215	265	310	390	435
Sabana Grande.....	215	265	310	390	435
San Sebastian.....	215	265	310	390	435
Utua.....	215	265	310	390	435
Villalba.....	215	265	310	390	435
Yauco.....	215	265	310	390	435
V I R G I N I S L A N D S					
NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Charlotte Amalie.....	485	590	694	867	970
St. Thomas.....	485	590	694	867	970

NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
Albionito.....	215	265	310	390	435
Barranquitas.....	215	265	310	390	435
Ciales.....	215	265	310	390	435
Comerio.....	215	265	310	390	435
Guanica.....	215	265	310	390	435
Guayanilla.....	215	265	310	390	435
Lajas.....	215	265	310	390	435
Las Marias.....	215	265	310	390	435
Maunabo.....	215	265	310	390	435
Naguabo.....	215	265	310	390	435
Patillas.....	215	265	310	390	435
Rincon.....	215	265	310	390	435
Salinas.....	215	265	310	390	435
Santa Isabel.....	215	265	310	390	435
Vieques.....	215	265	310	390	435
Yabucoa.....	215	265	310	390	435
NONMETROPOLITAN COUNTIES	EFF	1 BR	2 BR	3 BR	4 BR
St. Croix.....	432	525	619	773	866

Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 041492

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: ALABAMA	72	83
MSA: Anniston, AL	75	85
MSA: Birmingham, AL	108	119
MSA: Columbus, GA-AL	98	108
MSA: Decatur, AL	72	84
MSA: Dothan, AL	70	80
MSA: Florence, AL	85	92
MSA: Gadsden, AL	75	85
MSA: Huntsville, AL	108	119
MSA: Mobile, AL	86	93
MSA: Montgomery, AL	86	92
MSA: Tuscaloosa, AL	101	115
EXCEPTION COUNTY: LIMESTONE	81	89
EXCEPTION COUNTY: MARSHALL	81	89
NON METRO STATE: ALASKA	173	173
MSA: Anchorage, AK	199	199
EXCEPTION COUNTY: KETCHIKAN	173	182
NON METRO STATE: ARIZONA	108	139
MSA: Phoenix, AZ	152	181
MSA: Tucson, AZ	108	152
MSA: Yuma, AZ	108	139
NON METRO STATE: ARKANSAS	39	44
MSA: Fayetteville-Springdale, AR	67	72
MSA: Fort Smith, AR-OK	37	40
MSA: Little Rock-North Little Rock, AR	57	59
MSA: Memphis, TN-AR-MS	100	100
MSA: Pine Bluff, AR	28	31
MSA: Texarkana, TX-Texarkana, AR	118	133
EXCEPTION COUNTY: BENTON	53	55
EXCEPTION COUNTY: LITTLE RIVER	88	99
NON METRO STATE: CALIFORNIA	171	224
PMSA: Anaheim-Santa Ana, CA	418	418
MSA: Bakersfield, CA	160	245
MSA: Chico, CA	171	224
MSA: Fresno, CA	245	277
PMSA: Los Angeles-Long Beach, CA	202	341
MSA: Merced, CA	171	224

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Modesto, CA	256	277
PMSA: Oakland, CA	283	372
PMSA: Oxnard-Ventura, CA	259	393
MSA: Redding, CA	171	224
PMSA: Riverside-San Bernardino, CA	172	281
MSA: Sacramento, CA	197	235
MSA: Salinas-Seaside-Monterey, CA	245	309
MSA: San Diego, CA	295	322
PMSA: San Francisco, CA	304	396
PMSA: San Jose, CA	361	422
MSA: Santa Barbara-Santa Maria-Lompoc, CA	201	309
PMSA: Santa Cruz, CA	264	331
PMSA: Santa Rosa-Petaluma, CA	264	317
MSA: Stockton, CA	256	277
PMSA: Vallejo-Fairfield-Napa, CA	275	314
MSA: Visalia-Tulare-Porterville, CA	171	224
MSA: Yuba City, CA	171	224
EXCEPTION COUNTY: SAN LUIS OBI	235	278
NON METRO STATE: COLORADO	N/A	N/A
PMSA: Boulder-Longmont, CO	221	242
MSA: Colorado Springs, CO	162	182
PMSA: Denver, CO	252	272
MSA: Fort Collins-Loveland, CO	153	172
MSA: Greeley, CO	153	172
MSA: Pueblo, CO	153	172
EXCEPTION COUNTY: ALAMOSA	128	154
EXCEPTION COUNTY: ARCHULETA	154	172
EXCEPTION COUNTY: BACA	128	154
EXCEPTION COUNTY: BENT	128	154
EXCEPTION COUNTY: CHAFFEE	154	172
EXCEPTION COUNTY: CHEYENNE	128	154
EXCEPTION COUNTY: CLEAR CREEK	154	172
EXCEPTION COUNTY: CONEJO	128	154
EXCEPTION COUNTY: COSTILLA	128	154
EXCEPTION COUNTY: CROWLEY	128	154
EXCEPTION COUNTY: CUSTER	128	154
EXCEPTION COUNTY: DELTA	154	172
EXCEPTION COUNTY: DELORES	154	172
EXCEPTION COUNTY: EAGLE	249	280
EXCEPTION COUNTY: ELBERT	128	154
EXCEPTION COUNTY: FREMONT	154	172
EXCEPTION COUNTY: GARFIELD	249	280
EXCEPTION COUNTY: GILPIN	164	189
EXCEPTION COUNTY: GRAND	154	172

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: GUNNISON	154	172
EXCEPTION COUNTY: HINSDALE	154	172
EXCEPTION COUNTY: HUERFANO	128	154
EXCEPTION COUNTY: JACKSON	154	172
EXCEPTION COUNTY: KIOWA	128	154
EXCEPTION COUNTY: KIT CARSON	128	154
EXCEPTION COUNTY: LAKE	154	172
EXCEPTION COUNTY: LA PLATA	154	172
EXCEPTION COUNTY: LAS ANIMAS	128	154
EXCEPTION COUNTY: LINCOLN	128	154
EXCEPTION COUNTY: LOGAN	154	172
EXCEPTION COUNTY: MESA	154	172
EXCEPTION COUNTY: MINERAL	128	154
EXCEPTION COUNTY: MOFFAT	249	280
EXCEPTION COUNTY: MONTEZUMA	154	172
EXCEPTION COUNTY: MONTROSE	154	172
EXCEPTION COUNTY: MORGAN	128	154
EXCEPTION COUNTY: OTERO	128	154
EXCEPTION COUNTY: DURAY	154	172
EXCEPTION COUNTY: PARK	128	154
EXCEPTION COUNTY: PHILLIPS	249	280
EXCEPTION COUNTY: PITKIN	128	154
EXCEPTION COUNTY: PROWERS	249	280
EXCEPTION COUNTY: RIO BLANCO	128	154
EXCEPTION COUNTY: RIO GRANDE	249	280
EXCEPTION COUNTY: ROUTT	128	154
EXCEPTION COUNTY: SAGUACHE	154	172
EXCEPTION COUNTY: SAN JUAN	154	172
EXCEPTION COUNTY: SAN MIGUEL	128	154
EXCEPTION COUNTY: SEDGWICK	249	280
EXCEPTION COUNTY: SUMMIT	128	154
EXCEPTION COUNTY: TELLER	128	154
EXCEPTION COUNTY: WASHINGTON	128	154
EXCEPTION COUNTY: YUMA	168	168
NON METRO STATE: CONNECTICUT		
PMSA: Bridgeport-Milford, CT	224	224
PMSA: Bristol, CT	170	170
PMSA: Danbury, CT	171	171
PMSA: Hartford, CT	184	184
PMSA: Middletown, CT	184	184
PMSA: New Britain, CT	184	184
PMSA: New Haven-Meriden, CT	166	166
MSA: New London-Norwich, CT-RI	157	157
PMSA: Norwalk, CT	210	210

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D - FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: Stamford, CT	210	210
MSA: Waterbury, CT	170	170
NON METRO STATE: DELAWARE	74	74
PMSA: Wilmington, DE-NJ-MD	153	153
NON METRO STATE: DIST. OF COLUMBIA	N/A	N/A
MSA: Washington, DC-MD-VA	209	209
NON METRO STATE: FLORIDA	91	91
MSA: Bradenton, FL	133	133
MSA: Daytona Beach, FL	118	118
PMSA: Fort Lauderdale-Hollywood-Pompano Beach, FL	192	192
MSA: Fort Myers-Cape Coral, FL	124	124
MSA: Fort Pierce, FL	89	89
MSA: Fort Walton Beach, FL	92	92
MSA: Gainesville, FL	92	92
MSA: Jacksonville, FL	85	85
MSA: Lakeland-Winter Haven, FL	92	92
MSA: Melbourne-Titusville-Palm Bay, FL	108	108
PMSA: Miami-Hialeah, FL	151	151
MSA: Naples, FL	92	92
MSA: Ocala, FL	92	92
MSA: Orlando, FL	108	108
MSA: Panama City, FL	92	92
MSA: Pensacola, FL	92	92
MSA: Sarasota, FL	124	124
MSA: Tallahassee, FL	85	85
MSA: Tampa-St. Petersburg-Clearwater, FL	124	124
MSA: West Palm Beach-Boca Raton-DeLray Beach, FL	158	158
EXCEPTION COUNTY: BAKER	82	82
EXCEPTION COUNTY: COLUMBIA	91	91
EXCEPTION COUNTY: WAKULLA	82	82
NON METRO STATE: GEORGIA	66	66
MSA: Albany, GA	58	58
MSA: Athens, GA	66	66
MSA: Atlanta, GA	104	104
MSA: Augusta, GA-SC	89	89
MSA: Chattanooga, TN-GA	58	58
MSA: Columbus, GA-AL	98	98
MSA: Macon-Warner Robins, GA	59	59

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Savannah, GA	73	85
EXCEPTION COUNTY: BRYAN	66	66
EXCEPTION COUNTY: TWIGGS	58	64
NON METRO STATE: HAWAII	N/A	N/A
MSA: Honolulu, HI	N/A	N/A
NON METRO STATE: IDAHO	129	129
MSA: Boise City, ID	140	163
NON METRO STATE: ILLINOIS	119	128
MSA: Aurora-Elgin, IL	249	268
MSA: Bloomington-Normal, IL	134	134
MSA: Champaign-Urbana-Rantoul, IL	109	109
MSA: Chicago, IL	263	281
MSA: Davenport-Rock Island-Moline, IA-IL	147	155
MSA: Decatur, IL	147	147
MSA: Joliet, IL	263	281
MSA: Kankakee, IL	106	106
MSA: Lake County, IL	249	268
MSA: Peoria, IL	201	220
MSA: Rockford, IL	198	210
MSA: St. Louis, MO-IL	107	124
MSA: Springfield, IL	129	137
NON METRO STATE: INDIANA	65	84
MSA: Anderson, IN	72	72
MSA: Bloomington, IN	68	68
MSA: Cincinnati, OH-KY-IN	130	136
MSA: Elkhart-Goshen, IN	94	94
MSA: Evansville-Henderson, IN-KY	87	92
MSA: Fort Wayne, IN	80	109
MSA: Gary-Hammond, IN	127	146
MSA: Indianapolis, IN	102	118
MSA: Kokomo, IN	94	107
MSA: Lafayette-West Lafayette, IN	88	130
MSA: Louisville, KY-IN	92	101
MSA: Muncie, IN	69	78
MSA: South Bend-Mishawaka, IN	107	113
MSA: Terre Haute, IN	68	85
EXCEPTION COUNTY: ADAMS	65	84
EXCEPTION COUNTY: BLACKFORD	73	84

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: GIBSON	65	84
EXCEPTION COUNTY: GRANT	73	84
EXCEPTION COUNTY: HENRY	73	84
EXCEPTION COUNTY: JAY	73	84
EXCEPTION COUNTY: MARSHALL	74	84
EXCEPTION COUNTY: RANDOLPH	73	84
EXCEPTION COUNTY: SULLIVAN	66	78
EXCEPTION COUNTY: VERMILLION	66	78
EXCEPTION COUNTY: WAYNE	73	84
EXCEPTION COUNTY: WELLS	65	84
NON METRO STATE: IOWA	101	109
MSA: Cedar Rapids, IA	119	138
MSA: Davenport-Rock Island-Moline, IA-IL	149	156
MSA: Des Moines, IA	127	135
MSA: Dubuque, IA	119	148
MSA: Iowa City, IA	119	135
MSA: Omaha, NE-IA	111	130
MSA: Sioux City, IA-NE	115	115
MSA: Waterloo-Cedar Falls, IA	119	138
NON METRO STATE: KANSAS	89	101
MSA: Kansas City, MO-KS	103	126
MSA: Lawrence, KS	93	106
MSA: Topeka, KS	91	103
MSA: Wichita, KS	106	114
EXCEPTION COUNTY: JEFFERSON	85	98
EXCEPTION COUNTY: OSAGE	85	98
NON METRO STATE: KENTUCKY	79	87
PMSA: Cincinnati, OH-KY-IN	130	136
MSA: Clarksville-Hopkinsville, TN-KY	85	92
MSA: Evansville-Henderson, IN-KY	85	92
MSA: Huntington-Ashland, WV-KY-OH	97	97
MSA: Lexington-Fayette, KY	101	116
MSA: Louisville, KY-IN	92	100
MSA: Owensboro, KY	93	111
NON METRO STATE: LOUISIANA	85	100
MSA: Alexandria, LA	85	100
MSA: Baton Rouge, LA	100	118
MSA: Houma-Thibodaux, LA	84	98

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Lafayette, LA	92	109
MSA: Lake Charles, LA	98	116
MSA: Monroe, LA	85	100
MSA: New Orleans, LA	106	122
MSA: Shreveport, LA	92	109
EXCEPTION COUNTY: GRANT	81	96
EXCEPTION COUNTY: WEBSTER	85	100
NON METRO STATE: MAINE	149	171
MSA: Bangor, ME	150	173
MSA: Lewiston-Auburn, ME	114	114
MSA: Portland, ME	187	214
MSA: Portsmouth-Dover-Rochester, NH-ME	150	173
NON METRO STATE: MARYLAND	135	135
MSA: Baltimore, MD	219	219
MSA: Cumberland, MD-WV	136	136
MSA: Hagerstown, MD	208	208
MSA: Washington, DC-MD-VA	209	209
PMSA: Wilmington, DE-NJ-MD	153	153
EXCEPTION COUNTY: ST MARYS	248	248
NON METRO STATE: MASSACHUSETTS	183	183
PMSA: Boston, MA	176	190
PMSA: Brockton, MA	176	176
PMSA: Fall River, MA-RI	114	114
MSA: Fitchburg-Leominster, MA	136	136
PMSA: Lawrence-Haverhill, MA-NH	167	178
PMSA: Lowell, MA-NH	167	178
MSA: New Bedford, MA	157	157
PMSA: Pawtucket-Woonsocket-Attleboro, RI-MA	156	156
MSA: Pittsfield, MA	171	171
PMSA: Salem-Gloucester, MA	176	190
MSA: Springfield, MA	134	134
MSA: Worcester, MA	117	117
NON METRO STATE: MICHIGAN	128	142
PMSA: Ann Arbor, MI	187	202
MSA: Battle Creek, MI	110	129
MSA: Benton Harbor, MI	129	143
PMSA: Detroit, MI	181	196
MSA: Flint, MI	157	157

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA. SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Grand Rapids, MI	118	127
MSA: Jackson, MI	129	129
MSA: Kalamazoo, MI	135	139
MSA: Lansing-East Lansing, MI	151	176
MSA: Muskegon, MI	118	120
MSA: Saginaw-Bay City-Midland, MI	137	137
EXCEPTION COUNTY: BARRY	104	122
EXCEPTION COUNTY: IONIA	128	142
EXCEPTION COUNTY: OCEANA	111	113
EXCEPTION COUNTY: SHIAWASSEE	149	149
EXCEPTION COUNTY: VAN BUREN	128	132
NON METRO STATE: MINNESOTA	91	91
MSA: Duluth, MN-WI	94	106
MSA: Fargo-Moorhead, ND-MN	146	165
MSA: Minneapolis-St. Paul, MN-WI	219	233
MSA: Rochester, MN	133	133
MSA: St. Cloud, MN	117	117
EXCEPTION COUNTY: POLK	140	158
NON METRO STATE: MISSISSIPPI	85	101
MSA: Biloxi-Gulfport, MS	100	118
MSA: Jackson, MS	108	133
MSA: Memphis, TN-AR-MS	100	100
MSA: Pascagoula, MS	85	100
EXCEPTION COUNTY: STONE	85	101
NON METRO STATE: MISSOURI	71	78
MSA: Columbia, MO	103	111
MSA: Joplin, MO	72	79
MSA: Kansas City, MO-KS	103	126
MSA: St. Joseph, MO	106	115
MSA: St. Louis, MO-IL	108	125
MSA: Springfield, MO	74	80
EXCEPTION COUNTY: ANDREW	99	106
NON METRO STATE: MONTANA	N/A	N/A
MSA: Billings, MT	192	214
MSA: Great Falls, MT	162	182
EXCEPTION COUNTY: BEAVERHEAD	154	172
EXCEPTION COUNTY: BIG HORN	154	172
EXCEPTION COUNTY: BLAINE	109	128

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: BROADWATER	154	172
EXCEPTION COUNTY: CARBON	154	172
EXCEPTION COUNTY: CARTER	109	128
EXCEPTION COUNTY: CHOUTEAU	109	128
EXCEPTION COUNTY: CUSTER	154	172
EXCEPTION COUNTY: DANIELS	109	128
EXCEPTION COUNTY: DAWSON	154	172
EXCEPTION COUNTY: DEER LODGE	154	172
EXCEPTION COUNTY: FALLON	109	128
EXCEPTION COUNTY: FERGUS	109	128
EXCEPTION COUNTY: FLATHEAD	154	172
EXCEPTION COUNTY: GALLATIN	154	172
EXCEPTION COUNTY: GARFIELD	109	128
EXCEPTION COUNTY: GLACIER	109	128
EXCEPTION COUNTY: GOLDEN VALLE	109	128
EXCEPTION COUNTY: GRANITE	154	172
EXCEPTION COUNTY: HILL	109	128
EXCEPTION COUNTY: JEFFERSON	154	172
EXCEPTION COUNTY: JUDITH BASIN	109	128
EXCEPTION COUNTY: LAKE	154	172
EXCEPTION COUNTY: LEWIS+ CLARK	154	172
EXCEPTION COUNTY: LIBERTY	109	128
EXCEPTION COUNTY: LINCOLN	154	172
EXCEPTION COUNTY: MCCONE	109	128
EXCEPTION COUNTY: MADISON	154	172
EXCEPTION COUNTY: MEAGHER	154	172
EXCEPTION COUNTY: MINERAL	154	172
EXCEPTION COUNTY: MISSOULA	154	172
EXCEPTION COUNTY: MUSSELSHELL	154	172
EXCEPTION COUNTY: PARK	109	128
EXCEPTION COUNTY: PETROLEUM	109	128
EXCEPTION COUNTY: PHILLIPS	109	128
EXCEPTION COUNTY: PONDERA	154	172
EXCEPTION COUNTY: POWDER RIVER	154	172
EXCEPTION COUNTY: POWELL	109	128
EXCEPTION COUNTY: PRAIRIE	154	172
EXCEPTION COUNTY: RAVALLI	109	128
EXCEPTION COUNTY: RICHLAND	109	128
EXCEPTION COUNTY: ROOSEVELT	154	172
EXCEPTION COUNTY: ROSEBUD	154	172
EXCEPTION COUNTY: SANDERS	109	128
EXCEPTION COUNTY: SHERIDAN	154	172
EXCEPTION COUNTY: SILVER BOW	109	128
EXCEPTION COUNTY: STILLWATER	109	128
EXCEPTION COUNTY: SWEET GRASS	109	128
EXCEPTION COUNTY: TETON	109	128

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE SPACE	DOUBLE SPACE
EXCEPTION COUNTY: TOOLE	109	128
EXCEPTION COUNTY: TREASURE	154	172
EXCEPTION COUNTY: VALLEY	109	128
EXCEPTION COUNTY: WHEATLAND	109	128
EXCEPTION COUNTY: WIBAUX	109	128
EXCEPTION COUNTY: VL-ST-NT-PK	154	172
NON METRO STATE: NEBRASKA	92	113
MSA: Lincoln, NE	128	135
MSA: Omaha, NE-IA	111	130
MSA: Sioux City, IA-NE	115	115
NON METRO STATE: NEVADA	121	139
MSA: Las Vegas, NV	256	285
MSA: Reno, NV	256	285
NON METRO STATE: NEW HAMPSHIRE	134	149
PMSA: Lawrence-Haverhill, MA-NH	167	178
PMSA: Lowell, MA-NH	167	178
MSA: Manchester, NH	154	170
PMSA: Nashua, NH	190	190
MSA: Portsmouth-Dover-Rochester, NH-ME	150	173
NON METRO STATE: NEW JERSEY	142	142
MSA: Allentown-Bethlehem-Easton, PA-NJ	137	137
MSA: Atlantic City, NJ	216	216
PMSA: Bergen-Passaic, NJ	297	299
PMSA: Jersey City, NJ	289	289
PMSA: Middlesex-Somerset-Hunterdon, NJ	339	339
PMSA: Monmouth-Ocean, NJ	259	314
PMSA: Newark, NJ	279	289
PMSA: Philadelphia, PA-NJ	239	239
PMSA: Trenton, NJ	210	210
PMSA: Vineland-Millville-Bridgeton, NJ	185	185
PMSA: Wilmington, DE-NJ-MD	151	151
NON METRO STATE: NEW MEXICO	111	129
MSA: Las Cruces, NM	113	131
MSA: Albuquerque, NM	127	148
MSA: Santa Fe, NM	113	131
EXCEPTION COUNTY: SANDOVAL	119	135

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: NEW YORK	166	166
MSA: Albany-Schenectady-Troy, NY	204	204
MSA: Binghamton, NY	122	122
PMSA: Buffalo, NY	148	148
MSA: Elmira, NY	130	130
MSA: Glens Falls, NY	164	164
MSA: Jamestown-Dunkirk, NY	165	165
PMSA: Nassau-Suffolk, NY	227	294
PMSA: New York, NY	236	236
PMSA: Niagara Falls, NY	141	141
PMSA: Orange County, NY	163	163
PMSA: Poughkeepsie, NY	311	311
MSA: Rochester, NY	186	186
MSA: Syracuse, NY	150	150
MSA: Utica-Rome, NY	152	152
EXCEPTION COUNTY: WESTCHESTER	279	279
NON METRO STATE: NORTH CAROLINA	59	73
MSA: Asheville, NC	85	100
MSA: Burlington, NC	85	100
MSA: Charlotte-Gastonia-Rock Hill, NC-SC	85	100
MSA: Fayetteville, NC	85	100
MSA: Greensboro-Winston-Salem-High Point, NC	59	73
MSA: Hickory-Morganton, NC	59	73
MSA: Jacksonville, NC	85	100
MSA: Raleigh-Durham, NC	85	100
MSA: Wilmington, NC	64	76
EXCEPTION COUNTY: BRUNSWICK	101	101
EXCEPTION COUNTY: CURRITUCK	76	76
EXCEPTION COUNTY: HAYWOOD	84	76
EXCEPTION COUNTY: MADISON	117	135
NON METRO STATE: NORTH DAKOTA	167	184
MSA: Bismarck, ND	147	166
MSA: Fargo-Moorhead, ND-MN	127	157
MSA: Grand Forks, ND	83	83
NON METRO STATE: OHIO	124	124
PMSA: Akron, OH	90	90
MSA: Canton, OH	130	136
PMSA: Cincinnati, OH-KY-IN	132	132
PMSA: Cleveland, OH		

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Columbus, OH	118	137
MSA: Dayton-Springfield, OH	90	90
PMSA: Hamilton-Middletown, OH	105	108
MSA: Huntington-Ashland, WV-KY-OH	98	98
MSA: Lima, OH	118	118
PMSA: Lorain-Elyria, OH	141	141
MSA: Mansfield, OH	110	110
MSA: Parkersburg-Marletta, WV-OH	98	98
MSA: Steubenville-Weirton, OH-WV	88	88
MSA: Toledo, OH	148	201
MSA: Wheeling, WV-OH	90	90
MSA: Youngstown-Warren, OH	110	110
EXCEPTION COUNTY: CHAMPAIGN	83	83
EXCEPTION COUNTY: OTTAWA	100	134
EXCEPTION COUNTY: PREBLE	83	83
EXCEPTION COUNTY: PUTNAM	83	83
EXCEPTION COUNTY: VAN WERT	83	83
NON METRO STATE: OKLAHOMA	81	88
MSA: Enid, OK	83	89
MSA: Fort Smith, AR-OK	37	40
MSA: Lawton, OK	84	92
MSA: Oklahoma City, OK	86	95
MSA: Tulsa, OK	92	100
EXCEPTION COUNTY: LE FLORE	35	38
EXCEPTION COUNTY: MAYES	81	88
NON METRO STATE: OREGON	165	174
MSA: Eugene-Springfield, OR	194	201
MSA: Medford, OR	165	175
PMSA: Portland, OR	222	246
MSA: Salem, OR	194	201
NON METRO STATE: PENNSYLVANIA	98	98
MSA: Allentown-Bethlehem-Easton, PA-NJ	139	139
MSA: Altoona, PA	128	128
PMSA: Beaver County, PA	98	98
MSA: Erie, PA	128	128
MSA: Harrisburg-Lebanon-Carlisle, PA	146	146
MSA: Johnstown, PA	128	128
MSA: Lancaster, PA	132	132
MSA: Philadelphia, PA-NJ	241	241
PMSA: Pittsburgh, PA	102	102

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Reading, PA	132	132
MSA: Scranton--Wilkes-Barre, PA	117	117
MSA: Sharon, PA	98	98
MSA: State College, PA	98	98
MSA: Williamsport, PA	98	98
MSA: York, PA	132	132
EXCEPTION COUNTY: MONROE	117	117
EXCEPTION COUNTY: SUSQUEHANNA	98	98
NON METRO STATE: RHODE ISLAND	149	149
PMSA: Fall River, MA-RI	114	114
MSA: New London-Norwich, CT-RI	157	157
PMSA: Pawtucket-Woonsocket-Attleboro, RI-MA	157	157
PMSA: Providence, RI	66	66
NON METRO STATE: SOUTH CAROLINA	66	66
MSA: Anderson, SC	66	66
MSA: Augusta, GA-SC	89	92
MSA: Charleston, SC	85	85
MSA: Charlotte-Gastonia-Rock Hill, NC-SC	85	100
MSA: Columbia, SC	73	85
MSA: Florence, SC	66	66
MSA: Greenville-Spartanburg, SC	73	73
NON METRO STATE: SOUTH DAKOTA	100	117
MSA: Rapid City, SD	100	117
MSA: Sioux Falls, SD	141	158
NON METRO STATE: TENNESSEE	66	66
MSA: Chattanooga, TN-GA	58	85
MSA: Clarksville-Hopkinsville, TN-KY	85	92
MSA: Jackson, TN	66	86
MSA: Johnson City-Kingsport-Bristol, TN-VA	92	92
MSA: Knoxville, TN	73	73
MSA: Memphis, TN-AR-MS	100	100
MSA: Nashville, TN	100	118
NON METRO STATE: TEXAS	70	88
NON METRO STATE: TEXAS	70	88

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Abilene, TX	62	69
MSA: Amarillo, TX	116	122
MSA: Austin, TX	106	124
MSA: Beaumont-Port Arthur, TX	109	124
MSA: Brazoria, TX	116	135
MSA: Brownsville-Harlingen, TX	85	100
MSA: Bryan-College Station, TX	106	118
MSA: Corpus Christi, TX	89	118
MSA: Dallas, TX	83	107
MSA: El Paso, TX	120	136
MSA: Fort Worth-Arlington, TX	83	107
MSA: Galveston-Texas City, TX	112	125
MSA: Houston, TX	119	139
MSA: Killeen-Temple, TX	109	118
MSA: Laredo, TX	74	92
MSA: Longview-Marshall, TX	100	115
MSA: Lubbock, TX	115	118
MSA: McAllen-Edinburg-Mission, TX	98	118
MSA: Midland, TX	118	124
MSA: Odessa, TX	118	124
MSA: San Angelo, TX	100	109
MSA: San Antonio, TX	85	100
MSA: Sherman-Denison, TX	92	109
MSA: Texarkana, TX-Texarkana, AR	118	133
MSA: Tyler, TX	92	97
MSA: Victoria, TX	72	89
MSA: Waco, TX	95	109
MSA: Wichita Falls, TX	66	74
EXCEPTION COUNTY: CALLAHAN	60	66
EXCEPTION COUNTY: CLAY	64	70
EXCEPTION COUNTY: HOOD	70	88
EXCEPTION COUNTY: JONES	60	66
EXCEPTION COUNTY: WISE	70	88
NON METRO STATE: UTAH	N/A	N/A
MSA: Provo-Orem, UT	153	172
MSA: Salt Lake City-Ogden, UT	172	192
EXCEPTION COUNTY: BEAVER	109	128
EXCEPTION COUNTY: BOX ELDER	109	128
EXCEPTION COUNTY: CACHE	109	128
EXCEPTION COUNTY: CARBON	154	172
EXCEPTION COUNTY: DAGGETT	109	128
EXCEPTION COUNTY: DUCHESNE	109	128
EXCEPTION COUNTY: EMERY	154	172
EXCEPTION COUNTY: GARFIELD	109	128

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: GRAND	154	172
EXCEPTION COUNTY: IRON	109	128
EXCEPTION COUNTY: JUAB	109	128
EXCEPTION COUNTY: KANE	109	128
EXCEPTION COUNTY: MILLARD	109	128
EXCEPTION COUNTY: MORGAN	109	128
EXCEPTION COUNTY: PIUTE	109	128
EXCEPTION COUNTY: RICH	109	128
EXCEPTION COUNTY: SAN JUAN	109	128
EXCEPTION COUNTY: SANPETE	109	128
EXCEPTION COUNTY: SEVIER	109	128
EXCEPTION COUNTY: SUMMIT	108	120
EXCEPTION COUNTY: TOOELE	154	172
EXCEPTION COUNTY: UINTAH	109	128
EXCEPTION COUNTY: WASATCH	109	128
EXCEPTION COUNTY: WASHINGTON	109	128
EXCEPTION COUNTY: WAYNE	139	161
NON METRO STATE: VERMONT		
MSA: Burlington, VT	170	194
EXCEPTION COUNTY: CHITTENDEN	169	196
EXCEPTION COUNTY: FRANKLIN	144	166
EXCEPTION COUNTY: GRAND ISLE	158	181
EXCEPTION COUNTY: ORANGE	156	180
EXCEPTION COUNTY: WASHINGTON	172	199
EXCEPTION COUNTY: WINDHAM	207	239
EXCEPTION COUNTY: WINDSOR	223	255
NON METRO STATE: VIRGINIA	96	96
MSA: Charlottesville, VA	96	96
MSA: Danville, VA	93	93
MSA: Johnson City-Kingsport-Bristol, TN-VA	86	86
MSA: Lynchburg, VA	137	137
MSA: Norfolk-Virginia Beach-Newport News, VA	135	135
MSA: Richmond-Petersburg, VA	93	93
MSA: Roanoke, VA	209	209
MSA: Washington, DC-MD-VA	83	83
EXCEPTION COUNTY: APPOMATTOX	90	90
EXCEPTION COUNTY: CRAIG	142	165
NON METRO STATE: WASHINGTON		
MSA: Bellingham, WA	142	184
MSA: Bremerton, WA	142	184

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: Olympia, WA	142	184
MSA: Richland-Kennewick-Pasco, WA	194	194
PMSA: Seattle, WA	188	266
MSA: Spokane, WA	156	175
MSA: Tacoma, WA	168	199
PMSA: Vancouver, WA	207	227
MSA: Yakima, WA	156	164
NON METRO STATE: WEST VIRGINIA		
MSA: Charleston, WV	93	93
MSA: Cumberland, MD-WV	101	101
MSA: Huntington-Ashland, WV-KV-OH	136	136
MSA: Parkersburg-Marietta, WV-OH	98	98
MSA: Steubenville-Weirton, OH-WV	98	98
MSA: Wheeling, WV-OH	88	88
EXCEPTION COUNTY: BERKELEY	90	90
EXCEPTION COUNTY: JEFFERSON	133	133
EXCEPTION COUNTY: MORGAN	133	133
EXCEPTION COUNTY: WIRT	90	90
NON METRO STATE: WISCONSIN		
MSA: Appleton-Oshkosh-Neenah, WI	101	109
MSA: Duluth, MN-WI	129	137
MSA: Eau Claire, WI	94	106
MSA: Green Bay, WI	120	130
MSA: Janesville-Beloit, WI	126	134
PMSA: Kenosha, WI	126	134
MSA: La Crosse, WI	143	155
MSA: Madison, WI	113	124
PMSA: Milwaukee, WI	189	200
MSA: Minneapolis-St. Paul, MN-WI	149	160
PMSA: Racine, WI	219	233
MSA: Sheboygan, WI	141	148
MSA: Wausau, WI	102	110
NON METRO STATE: WYOMING		
MSA: Casper, WY	N/A	N/A
MSA: Cheyenne, WY	258	279
EXCEPTION COUNTY: ALBANY	153	184
EXCEPTION COUNTY: BIG HORN	154	185
EXCEPTION COUNTY: CAMPBELL	154	185
EXCEPTION COUNTY: CARBON	258	280
EXCEPTION COUNTY: CONVERSE	258	280

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM)

EXCEPTION COUNTY: CROOK
 EXCEPTION COUNTY: FREMONT
 EXCEPTION COUNTY: GOSHEN
 EXCEPTION COUNTY: HOT SPRINGS
 EXCEPTION COUNTY: JOHNSON
 EXCEPTION COUNTY: LARAMIE
 EXCEPTION COUNTY: LINCOLN
 EXCEPTION COUNTY: PARK
 EXCEPTION COUNTY: PLATTE
 EXCEPTION COUNTY: SHERIDAN
 EXCEPTION COUNTY: SUBLETTE
 EXCEPTION COUNTY: SWEETWATER
 EXCEPTION COUNTY: TETON
 EXCEPTION COUNTY: UTAH
 EXCEPTION COUNTY: WASHAKIE
 EXCEPTION COUNTY: WESTON

SINGLE WIDE SPACE	DOUBLE WIDE SPACE
154	185
258	280
154	185
154	185
154	185
154	185
154	185
154	185
154	185
154	185
258	280
154	185
258	280
154	185
154	185
154	185
154	185

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

BRKPT PRINTS

[FR Doc. 92-10027 Filed 4-29-92; 8:45 am]

BILING CODE 4210-32-C

Executive Order

Thursday
April 30, 1992

Part VII

**Department of
Housing and Urban
Development**

Office of the Assistant Secretary

**Supportive Housing Demonstration; Fund
Availability for Transitional Housing
Program; Notice**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Housing and Development

[Docket No. N-92-3420; FR-3139-N-01]

Supportive Housing Demonstration; Notice of Fund Availability for Transitional Housing Program

AGENCY: Office of the Assistant Secretary for Community Housing and Development, HUD.

ACTION: Notice of fund availability.

SUMMARY: This notice announces the availability of approximately \$90,000,000 in funds for applications for assistance under the Transitional Housing program of the Supportive Housing Demonstration.

DATES: Applications for Transitional Housing program funds must be received by 5:15 p.m. Eastern Time on June 26, 1992 in the Office of Special Needs Assistance Programs in Washington. Applications may not be submitted by facsimile (FAX). The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

FOR A COPY OF THE APPLICATION PACKAGE, CONTACT: Application packages are available from the HUD field offices listed at the end of this notice. Additional information regarding the submission of applications is included in the package.

ADDRESSES: An original completed application must be submitted to the following address: Department of Housing and Urban Development, Office of Special Needs Assistance Programs, room 7262, 451 Seventh Street SW., Washington, DC 20410, Attention: Mr. James N. Forsberg. One copy of the application must also be sent to the HUD field office serving the area in which the applicant's project is located. A list of field offices appears at the end of this NOFA. This copy must be received by the application deadline as well, but a determination that an application was received on time will be made solely on receipt of the application at the Office of Special Needs Assistance Programs in Washington.

FOR FURTHER INFORMATION CONTACT: The HUD field office for the area in which the project is located.

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this Notice have been approved under the Paperwork Reduction Act of 1980 by the Office of Management and Budget (OMB), and were assigned OMB control number 2506-0112, expiration date March 31, 1993.

The Supportive Housing Demonstration is authorized by the Stewart B. McKinney Homeless Assistance Act, as amended (42 U.S.C. 11381-11388). HUD published a proposed rule covering all aspects of the Transitional Housing program on January 6, 1992 (57 FR 466), to be codified at 24 CFR part 577. Although a final rule will be published before grants are awarded, applicants shall be guided by the provisions in the proposed rule.

The purpose of the demonstration is to develop innovative approaches to providing housing and supportive services to the homeless, especially to deinstitutionalized homeless individuals, homeless families with children, and homeless individuals with mental disabilities and other handicapped homeless persons. The demonstration consists of two program: transitional housing and permanent housing for the handicapped homeless. Transitional housing encompasses both housing and appropriate supportive services designed to enable homeless persons move to independent living within a 24 month period.

Persons are considered homeless for the purpose of the demonstration if they are sleeping in shelters or in places not meant for human habitation, such as cars, parks, sidewalks, or abandoned buildings. Persons will also be considered to be homeless if: (1) They are in the process of being evicted from private dwelling units or are handicapped persons being discharged from institutions; (2) no subsequent residences have been identified; and (3) they lack the resources and support networks needed to obtain access to housing. To determine if a person is eligible for assistance under this demonstration, the question to ask is whether the person would spend the night in a shelter or in a place not meant for human habitation if he or she does not receive the assistance.

This notice announces the availability of \$90,000,000 in funds from the HUD appropriations act for fiscal year 1992 (Pub. L. 102-139, approved October 28, 1991). The available amount reflects reductions for renewal grants and for

the technical assistance set-aside, and may also include any additional funds that may become available as a result of deobligation from previous awards. In addition, following award of grants under the Permanent Housing for Handicapped Homeless program, which will take place after the awards for Transitional Housing, funds remaining unawarded in that competition may be awarded to the next highest ranked applicants for Transitional Housing funds not receiving an award in this competition. Similarly, funds remaining unawarded after Transitional Housing renewal grants are made may be awarded to the next highest applicants not receiving an award in this competition.

The funds are available for assistance in the form of grants for:

- (1) Acquisition;
- (2) Rehabilitation;
- (3) New construction where the applicant demonstrates that the costs associated with new construction are substantially less than the costs associated with rehabilitation or the applicant provides evidence of lack of available units that could be acquired and rehabilitated at a cost less than new constructions;
- (4) Operating costs (up to five years); and
- (5) Supportive services costs (up to five years), including costs for employment assistance and child care services.

Eligible applicants are States, metropolitan cities, urban counties, other governmental entities, Indian tribes, and private nonprofit organizations. Applicants may be eligible for one or any combination of the types of assistance.

In accordance with section 428(b) of the McKinney Act, HUD will allocate not less than \$20,000,000 of the available funds to Transitional Housing projects that serve homeless families with children. (The Transitional Housing rule at 24 CFR 577.5 defines a homeless family with children as a homeless family that includes at least one parent or guardian and one child under the age of 18 years.) After applications are rated and ranked, based on the criteria described below, HUD will determine if the tentatively selected projects include not less than \$20,000,000 for projects that will serve homeless families with children. If less than that amount is included among the tentatively selected projects, HUD will replace, to the extent necessary to achieve the \$20,000,000 set-aside, the lowest-ranked tentatively selected projects with projects

immediately below them that will serve homeless families with children.

To be considered for Transitional Housing assistance, an applicant must meet the application requirements at 24 CFR 577.210 of the January 6, 1992 proposed rule, as well as those requirements contained in the application. (A copy of the proposed rule is included in the application package.)

Rating and Ranking

Applications will be rated and ranked, with a maximum of 1,000 points, based upon the following criteria. To be eligible for an award, applicants must achieve points under each criterion, with the exception of criteria 2 (innovative quality of the proposal) and 5 (excess match or excess share). The criteria are:

1. *Applicant capacity (200 points)*—HUD will award up to 200 points based on the applicant's capacity in terms of (a) the amount, comprehensiveness, and quality of previous experience of the applicant in coordinating supportive services and in developing and operating housing for the identified homeless population; and (b) the applicant's record of timeliness in meeting deadlines, if any, tied to other Federal programs.

2. *Innovative quality of proposal (50 points)*—HUD will award up to 50 points based on the innovative quality of the proposal, when compared to other applications and other projects that have received awards for transitional housing, in terms of (a) responding to the needs of the homeless population to be served and moving that population to independent living; (b) a clear link between the innovation(s) and its proposed effect(s); and (c) its ability to be used as a model for other transitional housing projects. As noted above, a proposed project will be eligible for funding even if it is not considered innovative.

3. *Need for transitional housing (200 points)*—HUD will award up to 200 points based on the extent of the need for housing and supportive services in terms of (a) the number of homeless persons in the population targeted for assistance within the locality; (b) the reliability of the information source; (c) the clarity with which the needs of that population are defined; and (d) the likelihood that outreach and selection policies will ensure that the population will actually be served by the transitional housing project.

4. *Delivery of supportive services (300 points)*—HUD will award up to 300 points based on the extent to which (a) residents will be linked with services

from other sources, so as to maximize the portion of transitional housing funding for providing housing; (b) supportive service staff have experience in providing services for the population to be served; (c) supportive services are comprehensive in meeting the needs of the population served; (d) supportive services respond to the individual needs of the residents as those needs change over time; and (e) residents will be linked with permanent housing, job opportunities, and income supports upon leaving the transitional housing facility.

5. *Excess match and excess share (50 points)*—HUD will award up to 50 points based on the extent to which an applicant will provide resources in excess of (a) those needed to match the transitional housing assistance requested for acquisition, rehabilitation, or new construction; and (b) those needed to meet their share requirement for operating costs and supportive services.

6. *Cost effectiveness (100 points)*—HUD will award up to 100 points based on the extent to which the applicant's proposed costs are reasonable (a) in terms of the use of already existing, appropriate services within the community, so as to help reserve transitional housing funds for housing-related costs; (b) in relation to projects or activities of comparable scope, comparable target population, and comparable location; and (c) in terms of minimizing the relocation assistance required.

7. *Project quality (100 points)*—HUD will award up to 100 points based on the extent to which the application, viewed in its entirety, conveys a thorough understanding of the needs of homeless persons and describes a project clearly designed (in terms of the facility, its operation, and the supportive services) to assist residents in overcoming their problems and moving on to permanent housing.

HUD expects to announce awards of transitional housing funds by August 31, 1992. All applicants will be notified whether the application will be funded. In the event of a tie between applicants, the applicant with the highest total points for criteria 3, need for transitional housing, and 4, delivery of supportive services, will be chosen for funding. In the event of a procedural error that, when corrected, would result in awarding sufficient points to warrant funding of an otherwise eligible applicant during the funding round under this Notice, HUD may fund that applicant when sufficient funds become available.

Pre- and Post-Application Deadline Procedures

In order to afford applicants every opportunity to submit a ratable application, while at the same time ensuring the fairness and integrity of the selection process, HUD is adopting the following pre- and post-application deadline procedures:

Prior to the application deadline, HUD field offices will be available to provide advice and guidance to potential applicants on application requirements and program policies.

During the period immediately following the application deadline, HUD will screen applications and rate them. Each application will be reviewed first to determine the eligibility of the applicant and of the project's proposed activities, and that the clients the applicant intends to serve are homeless. Applications that pass this first review will be rated.

HUD will notify an applicant, in writing, of any curable technical deficiencies in the application. The applicant must submit corrections in accordance with the information specified in HUD's letter within 14 calendar days from the date of HUD's letter. If the applicant fails to submit the corrections within the 14-day cure period, HUD will disqualify the application.

Curable technical deficiencies are items that are not necessary for HUD review under the selection criteria (e.g., failure to submit a required certification with the application). Applicants may not submit items that would improve the substantive quality of the application after the application due date has expired.

Please note especially that HUD will not contact applicants to give them the opportunity to improve inadequate supporting documentation. HUD will provide examples of adequate documentation in accompanying technical assistance material. Applications are encouraged to review these examples carefully, as applicants with inadequate supporting documentation cannot be considered for awards.

The purpose of this process is to assist applicants in submitting ratable proposals and not to provide an opportunity for applications to be substantively improved once the application deadline has passed. However, it is the applicant that is responsible for submitting a complete and accurate application with adequate supporting documentation. HUD's reviews for completeness, adequacy,

and consistency should in no way be interpreted as relieving the applicant of this responsibility.

Other Matters

Paperwork Reduction Act

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under section 3540(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), and assigned OMB control number 2506-0112.

Documentation and Public Access Requirements; Applicant/Recipient Disclosures: Section 102, HUD Reform Act

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly Federal Register notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure

requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans for using appropriated funds for lobbying the executive or legislative branches of the Federal government in connection with a specific contract, grant or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding \$100,000 must certify that no Federal funds have or will be spent on lobbying activities in connection with the assistance.

Prohibition Against Lobbying of HUD Personnel

Section 112 of the Housing and Urban Development Reform Act of 1989 (Reform Act) added a new section 13 to the Department of Housing and Urban Development Act (42 U.S.C. 3531). Section 13 contains two provisions concerning efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance. Section 13 was implemented by final rule published in the Federal Register on May 17, 1991 (56 FR 29912). Appendix A of the rule contains examples of activities covered by the rule. Any questions concerning the rule should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; (202) 708-3815 TDD/Voice. (This is not a toll-free number.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

Prohibition against Advance Information on Funding Decisions

Section 103 of the Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that

information during the selection process for the award of assistance. HUD's regulations implementing section 103 are codified at 24 CFR part 4 (see 56 FR 22088, May 13, 1991). In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics; (202) 708-3815 TDD/Voice. (This is not a toll-free number.)

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street SW., Washington, DC 20410.

Federalism Executive Order

The General Counsel, as the Designated Official under section 8(a) of Executive Order 12612, *Federalism*, has determined that the provision in the Transitional Housing rule (24 CFR 577.220) requiring governmental applicants to assume the responsibilities for environmental review, decisionmaking, and action under the National Environmental Policy Act and other environmental authorities has Federalism implications. While the assignment of these responsibilities under section 104(g) of the Housing and Community Development Act of 1974 is discretionary with HUD, it is authorized by and clearly the intent of section 443 of the McKinney Act. Therefore, the policy is not subject to review under the Order.

Family Executive Order

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this document may have potential for significant impact on the formation, maintenance, and general

well-being of the family. At least \$20,000,000 of the assistance under the NOFA will be used to provide housing and supportive services to homeless families. Participation of families in the program can be expected to support family values through helping families remain together by enabling them to live in decent, safe, and sanitary housing and to acquire the skills and means to live independently in mainstream American society. Since the impact upon the family is considered beneficial, no further review under this Order is necessary.

HUD FIELD OFFICES

Alabama

Jasper Boatright, Beacon Ridge Tower, 600 Beacon Pkwy. West, suite 3000, Birmingham, AL 35209-3144; (205) 731-1672.

Alaska

Colleen Craig, Federal Bldg., 222 W. 8th Ave., #64, Anchorage, AK 99513-7537; (907) 271-3669.

Arizona

Diane Domzalski, 400 North First St., Suite 1600, Phoenix AZ 85004-2361; (602) 379-4754.

Arkansas

Billy M. Parsley, Lafayette Bldg., 523 Louisiana, Ste. 200, Little Rock, AR 72201-3707; (501) 324-6375.

California

(Southern)—Herbert L. Roberts, 1615 W. Olympic Blvd., Los Angeles, CA 90015-3801; (213) 251-7235.

(Northern)—Gordon H. McKay, 450 Goldengate Ave., P.O. Box 36003, San Francisco, CA 94102-3448; (415) 558-5576.

Colorado

Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202-2349; (303) 844-3811.

Connecticut

Daniel Kolesar, 330 Main St., Hartford, CT 06106-1880; (203) 240-4508.

Delaware

John Kane, Liberty Sq. Bldg., 105 S. 7th St., Philadelphia, PA 19106-3392; (215) 597-2865.

District of Columbia

James H. McDaniel, 820 1st St. NE., Washington, DC 20002; (202) 275-0094.

Florida

James N. Nichol, 325 W. Adams St., Jacksonville, FL 32202-4303; (904) 791-3587.

Georgia

Charles N. Straub, Russell Fed. Bldg., Room 688, 75 Spring St. SW., Atlanta, GA 30303-3388; (404) 331-5139.

Hawaii

Patty A. Nicholas, 7 Waterfront Plaza, Suite 500, 500 Ala Moana Blvd., Honolulu, HI 96813-4918; (808) 541-1327.

Idaho

John G. Bonham, 520 SW 6th Ave., Portland, OR 97204-1596; (503) 326-7018.

Illinois

Richard Wilson, 77 W. Jackson Blvd., Chicago, IL 60604; (312) 353-1696.

Indiana

Robert F. Poffenberger, 151 N. Delaware St., Indianapolis, IN 46204-2526; (317) 228-5189.

Iowa

Gregory A. Bevirt, Executive Tower Centre, 10909 Mill Valley Rd., Omaha, NE 68154-3955; (402) 492-3144.

Kansas

Miguel Madrigal, Gateway Towers 2, 400 State Ave., Kansas City, KS 66101-2406; (913) 236-2184.

Kentucky

Ben Cook, P.O. Box 1044, 601 W. Broadway, Louisville, KY 40201-1044; (502) 582-5394.

Louisiana

Greg Hamilton, P.O. Box 70288, 1661 Canal St., New Orleans, LA 70112-2887; (504) 589-7212.

Maine

David Lafond, Norris Cotten Fed. Bldg., 275 Chestnut St., Manchester, NH 03101-2487; (603) 666-7840.

Maryland

Harold Young, Equitable Bldg., 3rd Floor, 10 N. Calvert St., Baltimore, MD 21202-1865; (410) 962-2417.

Massachusetts

Frank Del Vecchio, Thomas P. O'Neill, Jr., Fed. Bldg., 10 Causeway St., Boston, MA 02222-1092; (617) 565-5343.

Michigan

Richard Paul, Patrick McNamara Bldg., 477 Michigan Ave., Detroit, MI 48226-2592; (313) 228-4343.

Minnesota

Shawn Huckleby, 220 2nd St. South, Minneapolis, MN 55401-2195; (612) 370-3019.

Mississippi

Jeanie E. Smith, Dr. A.H. McCoy Fed. Bldg., 100 W. Capitol St., Room 910, Jackson, MS 39269-1096; (601) 965-4765.

Missouri

(Eastern)—David H. Long, 1222 Spruce St., St. Louis, MO 63103-2836; (314) 539-6524.

(Western)—Miguel Madrigal, Gateway Towers 2, 400 State Ave., Kansas City, KS 66101-2406; (913) 236-2184.

Montana

Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202-2349; (303) 844-3811.

Nebraska

Gregory A. Bevirt, Executive Tower Centre, 10909 Mill Valley Rd., Omaha, NE 68154-3955; (402) 492-3144.

Nevada

(Las Vegas, Clark Cnty)—Diane Domzalski, 400 N. 5th St., Suite 1600, 2 Arizona Center, Phoenix, AZ 85004; (602) 379-4754.
(Remainder of state)—Gordon H. McKay, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102-3448; (415) 558-5576.

New Hampshire

David Lafond, Norris Cotten Fed. Bldg., 275 Chestnut St., Manchester, NH 03101-2487; (603) 666-7840.

New Jersey

Frank Sagarese, Military Park Bldg., 60 Park Pl., Newark, NJ 07102-5504; (201) 877-1776.

New Mexico

R.D. Smith, 1600 Throckmorton, P.O. Box 2905, Fort Worth, TX; 76113-2905; (817) 885-5483.

New York

(Upstate)—Michael F. Merrill, Lafayette Ct., 465 Main St., Buffalo, NY 14203-1700; (716) 846-5768.

(Downstate)—Joan Dabelko, 26 Federal Plaza, New York, NY 10278-0068; (212) 264-2885.

North Carolina

Charles T. Perebee, 415 N. Edgeworth St., Greensboro, NC 27401-2107; (919) 333-5711.

North Dakota

Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202-2349; (303) 844-3811.

Ohio

John E. Riordan, 200 North High St., Columbus, OH 43215-2499; (614) 469-6743.

Oklahoma

Katie Worsham, Murrah Fed. Bldg., 200 NW 5th St., Oklahoma City, OK 73102-3202; (405) 231-4973.

Oregon

John G. Bonham, 520 SW 6th Ave., Portland, OR 97204-1596; (503) 326-7018.

Pennsylvania

(Western)—Bruce Crawford, Old Post Office and Courthouse Bldg., 700 Grant St., Pittsburgh, PA 15219-1906; (412) 644-5493.
(Eastern)—John Kane, Liberty Sq. Bldg., 105 S. 7th St., Philadelphia, PA 19106-3392; (215) 597-2865.

Puerto Rico

Carmen R. Cabrera, 159 Carlos Chardon Ave., San Juan, PR 00918-1804; (809) 786-5576.

Rhode Island

Frank Del Vecchio, Thomas P. O'Neill, Jr., Fed. Bldg., 10 Causeway St., Boston, MA 02222-1092; (617) 565-5343.

South Carolina

Louis E. Bradley, Acting, Fed. Bldg., 1835-45 Assembly St., Columbia, SC 29201-2480; (803) 765-5564.

South Dakota

Barbara Richards, Exec. Tower Bldg., 1405
Curtis St., Denver, CO 80202-2349; (303)
844-3811.

Tennessee

Virginia Peck, 710 Locust St., Knoxville, TN
37902-2526; (615) 549-9422.

Texas

(Northern)—R. D. Smith, 1600 Throckmorton,
P.O. Box 2905, Fort Worth, TX; 76113-2905;
(817) 885-5483.

(Southern)—Robert W. Hicks, Washington
Sq., 800 Dolorosa, San Antonio, TX; (512)
229-6820.

Utah

Barbara Richards, Exec. Tower Bldg., 1405
Curtis St., Denver, CO 80202-2349; (303)
844-3811.

Vermont

David Lafond, Norris Cotten Fed. Bldg., 275
Chestnut St., Manchester, NH 03101-2487;
(603) 668-7640.

Virginia

Joseph Aversano, Fed. Bldg., 400 N. 8th St.,
P.O. Box 10170, Richmond, VA 23240-9998;
(804) 771-2624.

Washington

John Peters, Arcade Plaza Bldg., 1321 2nd
Ave., Seattle, WA 98101-2054; (206) 442-
0374.

West Virginia

Bruce Crawford, Old Post Office and
Courthouse Bldg., 700 Grant St., Pittsburgh,
PA 15219-1806; (412) 644-5493.

Wisconsin

Lana J. Vacha, Henry Reuss Fed. Plaza, 310
W. Wisconsin Ave., Suite 1380, Milwaukee,
WI 53203-2289; (414) 297-3113.

Wyoming

Barbara Richards, Exec. Tower Bldg., 1405
Curtis St., Denver, CO 80202-2349; (303)
844-3811.

Dated: April 23, 1992.

Anna Kondratas,

*Assistant Secretary for Community Planning
and Development.*

[FR Doc. 92-10026 Filed 4-29-92; 8:45 am]

BILLING CODE 4210-29-M

Best Interest Federal

Thursday
April 30, 1992

Part VIII

Department of Housing and Urban Development

Office of the Assistant Secretary

Supportive Housing Demonstration; Fund
Availability for Permanent Housing for
Handicapped Homeless Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-92-3421; FR-3140-N-01]

Supportive Housing Demonstration; Fund Availability for Permanent Housing for Handicapped Homeless Program

AGENCY: Office of the Assistant Secretary for Community Housing and Development, HUD.

ACTION: Notice of fund availability.

SUMMARY: This Notice announces the availability of approximately \$41,000,000 in funds for applications for assistance under the Permanent Housing for Handicapped Homeless program of the Supportive Housing Demonstration.

DATES: Applications for Permanent Housing for Handicapped Homeless program funds must be received by 5:15 p.m. eastern time on July 29, 1992, in the Office of Special Needs Assistance Programs in Washington. Applications may not be submitted by facsimile (FAX). The above-stated application deadline in firm as to date and hour. In the interest of fairness to all competing applications, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

FOR A COPY OF THE APPLICATION PACKAGE, CONTACT: Application packages are available from the HUD field offices listed at the end of this Notice. Additional information regarding the submission of applications is included in the package.

ADDRESSES: An original completed application must be submitted to the following address: Department of Housing and Urban Development, Office of Special Needs Assistance Programs, room 7262, 451 Seventh Street SW, Washington, DC 20410, Attention: Mr. James N. Forsberg. One copy of the application must also be sent to the HUD field office serving the area in which the applicant's project is located. A list of field offices appears at the end of this NOFA. This copy must be received by the application deadline as well, but a determination that an application was received on time will be made solely on receipt of the application at the Office of Special Needs Assistance Programs in Washington.

FOR FURTHER INFORMATION CONTACT: The HUD office for the area in which the project is located.

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this notice have been approved under the Paperwork Reduction Act of 1980 by the Office of Management and Budget (OMB), and were assigned OMB control number 2506-0112, expiration date March 31, 1993.

The Supportive Housing Demonstration is authorized by the Stewart B. McKinney Homeless Assistance Act, as amended (42 U.S.C. 11381-11388). HUD published a proposed rule covering all aspects of the Permanent Housing for Handicapped Homeless program on January 6, 1992 (57 FR 466), to be codified at 24 CFR part 578. Although a final rule will be published before grants are awarded, applicants shall be guided by the provisions in the proposed rule.

The purpose of the demonstration is to develop innovative approaches to providing housing and supportive services to the homeless, especially to deinstitutionalized homeless individuals, homeless families with children, and homeless individuals with mental disabilities and other handicapped homeless persons. The demonstration consists of two programs: transitional housing and permanent housing for the handicapped homeless. Permanent housing is community-based, long-term housing and appropriate supportive services designed to maximize each resident's ability to live independently within the permanent housing environment.

Persons are considered homeless for the purpose of the demonstration if they are sleeping in shelters or in places not meant for human habitation, such as cars, parks, sidewalks, or abandoned buildings. Persons will also be considered to be homeless if: (1) They are in the process of being evicted from private dwelling units or are handicapped persons being discharged from institutions; (2) no subsequent residences have been identified; and (3) they lack the resources and support networks needed to obtain access to housing. To determine if a person is eligible for assistance under this demonstration, the question to ask is whether the person would spend the night in a shelter or in a place not meant for human habitation if he or she does not receive the assistance.

This notice announces the availability of approximately \$41,000,000 in funds from the HUD appropriations act for fiscal year 1992 (Pub. L. 102-139, approved October 28, 1991). The available amount reflects reductions for renewal grants and for the technical assistance set-aside, and may also

include any additional funds that may become available as a result of deobligation from previous awards. In addition, funds remaining unawarded after Permanent Housing renewal grants are made may be awarded to the next highest applicants not receiving an award in this competition.

The funds are available for assistance in the form of grants for: (1) Acquisition; (2) rehabilitation; (3) new construction where the applicant demonstrates that the costs associated with new construction are substantially less than the costs associated with rehabilitation or the applicant provides evidence of lack of available units that could be acquired and rehabilitated at a cost less than new construction; (4) operating costs (up to five years); and (5) supportive services costs (up to five years), including costs for employment assistance and child care services.

Eligible applicants are States in which the permanent housing project is to be located, and Indian tribes. An applicant may be the State housing finance agency (or other State agency) that customarily implements housing programs for the State and that is identified by statute to participate in housing programs in the State. A project sponsor must operate the permanent housing and must provide or coordinate the provision of supportive services to the permanent housing residents. A project sponsor must be a private nonprofit organization that an authorized official of the applicant approves as financially responsible, or a public housing agency (PHA). Applicants may be eligible for one or any combination of the types of assistance.

To be considered for Permanent Housing for Handicapped Homeless assistance, an applicant must meet the application requirements at 24 CFR 578.210 of the January 6, 1992 proposed rule, as well as those requirements contained in the application. (A copy of the proposed rule is included in the application package.)

Rating and Ranking

Applications will be rated and ranked with a maximum of 1,000 points, based upon the following criteria. To be eligible for an award, applicants must achieve points under each criterion, with the exception of criteria 2 (innovative quality of the proposal) and 5 (excess match or excess share). The criteria are:

1. *Project sponsor capacity (200 points)*—HUD will award up to 200 points based on the project sponsor's capacity in terms of (a) the amount, comprehensiveness, and quality of

previous experience of the applicant in coordinating supportive services and in developing and operating housing for the identified homeless population; and (b) the applicant's record of timeliness in meeting deadlines, if any, tied to other Federal programs.

2. Innovative quality of proposal (50 points)—HUD will award up to 50 points based on the innovative quality of the proposal, when compared to other applications and other projects that have received awards for permanent housing, in terms of (a) responding to the needs of the homeless population to be served and assisting that population to achieve the greatest degree of self-sufficiency within the permanent housing environment of which they are capable; (b) a clear link between the innovation(s) and its proposed effect(s); and (c) its ability to serve as a model for other permanent housing projects. As noted above, a proposed project will be eligible for funding even if it is not considered innovative.

3. Need for permanent housing (200 points)—HUD will award up to 200 points based on the extent of the need for housing and supportive services in terms of (a) the number of homeless persons in the population targeted for assistance within the locality; (b) the reliability of the information source; (c) the clarity with which the needs of that population are defined; and (d) the likelihood that outreach and selection policies will ensure that the population will actually be served by the permanent housing project.

4. Delivery of supportive services (300 points)—HUD will award up to 300 points based on the extent to which (a) residents will be linked with services from other sources, so as to maximize the portion of permanent housing funding that will be used for housing; (b) supportive service staff have experience in providing services for the population to be served; (c) supportive services are comprehensive in meeting the needs of the population served; and (d) supportive services respond to the individual needs of the residents as those needs change over time.

5. Excess match and excess share (50 points)—HUD will award up to 50 points based on the extent to which an applicant will provide resources in excess of (a) those needed to match the permanent housing assistance requested for acquisition, rehabilitation, or new construction; and (b) those needed to meet their share requirement for operating costs and supportive services.

6. Cost effective (100 points)—HUD will award up to 100 points based on the extent to which the applicant's proposed costs are reasonable (a) in terms of the

use of already existing, appropriate services within the community, so as to help reserve permanent housing funds for housing-related costs; (b) in relation to projects or activities of comparable scope, comparable target population, and comparable location; and (c) in terms of minimizing the relocation assistance required.

7. Project quality (100 points) HUD will award up to 100 points based on the extent to which the application, viewed in its entirety, conveys a thorough understanding of the needs of homeless persons and describes a project clearly designed (in terms of the facility, its operation, and the supportive services) to assist residents in achieving the greatest degree of self-sufficiency in the permanent housing environment of which they are capable.

HUD expects to announce awards of permanent housing funds by September 30, 1992. All applicants will be notified whether the application will be funded. In the event of a tie between applicants, the applicant with the highest total points for criteria 3, need for permanent housing, and 4, delivery of supportive services, will be chosen for funding. In the event of a procedural error that, when corrected, would result in awarding sufficient points to warrant funding of an otherwise eligible applicant during the funding round under this Notice, HUD may fund that applicant when sufficient funds become available.

Pre- and Post-Application Deadline Procedures

In order to afford applicants every opportunity to submit a ratable application, while at the same time ensuring the fairness and integrity of the selection process, HUD is adopting the following pre- and post-application deadline procedures:

Prior to the application deadline, HUD field offices will be available to provide advice and guidance to potential applicants on application requirements and program policies.

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HUD will notify an applicant, in writing, of any curable technical deficiencies in the application. The applicant must submit corrections in accordance with the information specified in HUD's letter within 14

calendar days from the date of HUD's letter. If the applicant fails to submit the corrections within the 14-day cure period, HUD will disqualify the application.

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Please note especially that HUD will not contact applicants to give them the opportunity to improve inadequate supporting documentation. HUD will provide examples of adequate documentation in accompanying technical assistance material. Applicants are encouraged to review these examples carefully, as applicants with inadequate supporting documentation cannot be considered for awards.

The purpose of this process is to assist applicants in submitting ratable proposals and not to provide an opportunity for applications to be substantively improved once the application deadline has passed. However, it is the applicant that is responsible for submitting a complete and accurate application with adequate supporting documentation. HUD's reviews for completeness, adequacy, and consistency should in no way be interpreted as relieving the applicant of this responsibility.

Other Matters

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Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the

award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly *Federal Register* notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the *Federal Register* on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the *Federal Register* on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal government in connection with a specific contract, grant or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding \$100,000 must certify that no Federal funds have or will be spent on lobbying activities in connection with the assistance.

Prohibition Against Lobbying of HUD Personnel

Section 112 of the Housing and Urban Development Reform Act of 1989 (Reform Act) added a new section 13 to the Department of Housing and Urban Development Act (42 U.S.C. 3531). Section 13 contains two provisions

concerning efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance. Section 13 was implemented by final rule published in the *Federal Register* May 17, 1991 (56 FR 29912). Appendix A of the rule contains examples of activities covered by the rule. Any questions concerning the rule should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; (202) 708-3815 TDD/Voice. (This is not a toll-free number.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

Prohibition Against Advance Information on Funding Decisions

Section 103 of the Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance. HUD's regulations implementing section 103 are codified at 24 CFR part 4 (see 56 FR 22088, May 13, 1991). In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics; (202) 708-3815 TDD/Voice. (This is not a toll-free number.)

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public

inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street SW., Washington, DC 20410.

Federalism Executive Order

The General Counsel, as the Designated Official under section 8(a) of Executive Order 12612, *Federalism*, has determined that the requirement in the Permanent Housing for Handicapped Homeless rule (24 CFR 578.220) requiring applicants to assume the responsibilities for environmental review, decisionmaking, and action under the National Environmental Policy Act and other environmental authorities has Federalism Implications. While the assignment of these responsibilities under section 104(g) of the Housing and Community Development Act of 1974 is discretionary with HUD, it is authorized by and clearly the intent of section 443 of the McKinney Act. Therefore, the policy is not subject to review under the Order.

Family Executive Order

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this document may have potential for significant impact on the formation, maintenance, and general well-being of the family. Participation by families in the program can be expected to support family values through helping families remain together by enabling them to live in decent, safe, and sanitary housing and to acquire the skills and means to live independently in mainstream American society. Since the impact upon the family is considered beneficial, no further review under this Order is necessary.

HUD Field Offices

Alabama

Jasper Boatright, Beacon Ridge Tower, 600 Beacon Pkwy. West, suite 3000, Birmingham, AL 35209-3144; (205) 731-1672.

Alaska

Colleen Craig, Federal Bldg., 222 W. 8th Ave., #64, Anchorage, AK 99513-7537; (907) 271-3669.

Arizona

Diane Domzalski, 400 North First St., suite 1600, Phoenix, AZ 85004-2361; (602) 379-4754.

Arkansas

Billy M. Parsley, Lafayette Bldg., 523 Louisiana, ste. 200, Little Rock, AR 72231-3707; (501) 324-8375.

California

- (Southern)—Herbert L. Roberts, 1615 W. Olympic Blvd., Los Angeles, CA 90015-3801; (213) 251-7235.
 (Northern)—Gordon H. McKay, 450 Goldengate Ave., P.O. Box 36003, San Francisco, CA 94102-3448; (415) 556-5576.

Colorado

- Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202-2349; (303) 844-3811.

Connecticut

- Daniel Kolesar, 330 Main St., Hartford, CT 06106-1860; (203) 240-4508.

Delaware

- John Kane, Liberty Sq. Bldg., 105 S. 7th St., Philadelphia, PA 19106-3392; (215) 597-2665.

District of Columbia

- James H. McDaniel, 820 1st St. NE, Washington, DC 20002; (202) 275-0094.

Florida

- James N. Nichol, 325 W. Adams St., Jacksonville, FL 32202-4303; (904) 791-3587.

Georgia

- Charles N. Straub, Russell Fed. Bldg., room 688, 75 Spring St. SW., Atlanta, GA 30303-3388; (404) 331-5139.

Hawaii

- Patty A. Nicholas, 7 Waterfront Plaza, suite 500, 500 Ala Moana Blvd., Honolulu, HI 96813-4918; (808) 541-1327.

Idaho

- John G. Bonham, 520 SW., 6th Ave., Portland, OR 97204-1596; (503) 326-7018.

Illinois

- Richard Wilson, 77 W. Jackson Blvd., Chicago, IL 60604; (312) 353-1696.

Indiana

- Robert F. Poffenberger, 151 N. Delaware St., Indianapolis, IN 46204-2526; (317) 226-5169.

Iowa

- Gregory A. Bevirt, Executive Tower Centre, 10909 Mill Valley Rd., Omaha, NE 68154-3955 (402) 492-3144.

Kansas

- Miguel Madrigal, Gateway Towers 2, 400 State Ave., Kansas City, KS 66101-2406; (913) 236-2184.

Kentucky

- Ben Cook, P.O. Box 1044, 601 W. Broadway, Louisville, KY 40201-1044; (502) 582-5394.

Louisiana

- Greg Hamilton, P.O. Box 70288, 1661 Canal St., New Orleans, LA 70112-2887; (504) 589-7212.

Maine

- David Lafond, Norris Cotten Fed. Bldg., 275 Chestnut St., Manchester, NH 03101-2487; (603) 666-7640.

Maryland

- Harold Young, Equitable Bldg., 3d Floor, 10 N. Calvert St., Baltimore, MD 21202-1865; (410) 962-2417.

Massachusetts

- Frank Del Vecchio, Thomas P. O'Neill, Jr., Fed. Bldg., 10 Causeway St., Boston, MA 02222-1092; (617) 565-5343.

Michigan

- Richard Paul, Patrick McNamara Bldg., 477 Michigan Ave., Detroit, MI 48226-2592; (313) 226-4343.

Minnesota

- Shawn Huckleby, 220 2d St. South, Minneapolis, MN 55401-2195; (612) 370-3019.

Mississippi

- Jeanie E. Smith, Dr. A.H. McCoy Fed. Bldg., 100 W. Capitol St., room 910, Jackson, MS 39269-1096; (601) 965-4765.

Missouri

- (Eastern)—David H. Long, 1222 Spruce St., St. Louis, MO 63103-2836; (314) 539-6524.
 (Western)—Miguel Madrigal, Gateway Towers 2, 400 State Ave., Kansas City, KS 66101-2406; (913) 236-2184.

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Nebraska

- Gregory A. Bevirt, Executive Tower Centre, 10909 Mill Valley Rd. Omaha, NE 68154-3955; (402) 492-3144.

Nevada

- (Las Vegas, Clark Cnty)—Diane Domzalski, 400 N. 5th St., suite 1600, 2 Arizona Center, Phoenix, AZ 85004; (602) 379-4754.
 (Remainder of state)—Gordon H. McKay, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102-3448; (415) 556-5576.

New Hampshire

- David Lafond, Norris Cotten Fed. Bldg., 275 Chestnut St., Manchester, NH 03101-2487; (603) 666-7640.

New Jersey

- Frank Sagaresa, Military Park Bldg., 60 Park Pl., Newark, NJ 07102-5504; (201) 877-1776.

New Mexico

- R. D. Smith, 1600 Throckmorton, P.O. Box 2905, Fort Worth, TX; 76113-2905; (817) 855-5483.

New York

- (Upstate)—Michael F. Merrill, Lafayette Ct., 465 Main St., Buffalo, NY 14203-1780; (716) 846-5768.
 (Downstate)—Joan Dabelko, 26 Federal Plaza, New York, NY 10278-0068; (212) 264-2885.

North Carolina

- Charles T. Ferebee, 415 N. Edgeworth St., Greensboro, NC 27401-2107; (919) 333-5711.

North Dakota

- Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202-2349; (303) 844-3811.

Ohio

- John E. Riordan, 200 North High St., Columbus, OH 43215-2499; (614) 469-6743.

Oklahoma

- Katie Worsham, Murrah Fed. Bldg., 200 NW. 5th St., Oklahoma City, OK 73102-3202; (405) 231-4973.

Oregon

- John G. Bonham, 520 SW. 6th Ave., Portland, OR 97204-1596; (503) 326-7018.

Pennsylvania

- (Western)—Bruce Crawford, Old Post Office and Courthouse Bldg., 700 Grant St., Pittsburgh, PA 15219-1906; (412) 644-5493.
 (Eastern)—John Kane, Liberty Sq. Bldg., 105 S. 7th St., Philadelphia, PA 19106-3392; (215) 597-2665.

Puerto Rico

- Carmen R. Cabrera, 159 Carlos Chardon Ave., San Juan, PR 00918-1804; (809) 766-5576.

Rhode Island

- Frank Del Vecchio, Thomas P. O'Neill, Jr., Fed. Bldg., 10 Causeway St., Boston, MA 02222-1092; (617) 565-5443.

South Carolina

- Louis E. Bradley, Acting, Fed. Bldg., 1835-45 Assembly St., Columbia, SC 29201-2480; (803) 765-5564.

South Dakota

- Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202-2349; (303) 844-3811.

Tennessee

- Virginia Peck, 710 Locust St., Knoxville, TN 37902-2526; (615) 549-9422.

Texas

- (Northern)—R. D. Smith, 1600 Throckmorton, P.O. 2905, Fort Worth, TX; 76113-2905; (817) 885-5483.
 (Southern)—Robert W. Hicks, Washington Sq., 800 Dolorosa, San Antonio, TX; (512) 229-6820.

Utah

- Barbara Richards, Exec. Tower Bldg., 1405 Curtis St., Denver, CO 80202-2349; (303) 844-3811.

Vermont

- David Lafond, Norris Cotten, Fed. Bldg., 275 Chestnut St., Manchester, NH 03101-2487; (603) 666-7640.

Virginia

- Joseph Aversano, Fed. Bldg., 400 N. 8th St., P.O. Box 10170, Richmond, VA 23240-9998; (804) 771-2624.

Washington

- John Peters, Arcade Plaza Bldg., 1321 2d Ave., Seattle, WA 98101-2054; (206) 442-0374.

West Virginia

Bruce Crawford, Old Post Office and
Courthouse Bldg., 700 Grant St., Pittsburgh,
PA 15219-1906; (412) 644-5493.

Wisconsin

Lana J. Vacha, Henry Reuss Fed. Plaza, 310
W. Wisconsin Ave., suite 1380, Milwaukee,
WI 53203-2289; (414) 297-3113.

Wyoming

Barbara Richards, Exec. Tower Bldg., 1405
Curtis St., Denver, CO 80202-2349; (303)
844-3811.

Dated: April 23, 1992.

Anna Kondratas,

*Assistant Secretary for Community Planning
and Development.*

[FR Doc. 92-10025 Filed 4-29-92; 8:45 am]

BILLING CODE 4120-29-M

Indian Gaming

Thursday
April 30, 1992

Part IX

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****Indian Gaming**

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved tribal-state compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100-497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved the Winnebago Tribe of Nebraska and the State of Iowa gaming compact executed on February 25, 1992, and the First Amendment thereto.

SUPPLEMENTAL INFORMATION: As originally proposed, the compact impermissibly established gaming law to govern the entire Winnebago Reservation. The Winnebago Reservation includes 629 acres in Iowa and 112,320 acres in Nebraska. The original compact defined Winnebago lands to include all lands within the Winnebago Reservation. The original compact further established that the compact "shall be in effect on all Winnebago Land * * *". Because the Winnebago Reservation is situated in the states of Iowa and Nebraska, the compact, as originally proposed, attempted to govern gaming in two states in violation of the IGRA.

The IGRA requires that a gaming compact between a state and a tribe can only govern gaming on the lands in that state. Section 2710(d)(3)(A) of the Act requires the tribe to ask for compact negotiations with the "State in which

such lands are located." Thus, a compact governing lands outside the State of Iowa would violate the IGRA. However, the first amendment to the compact clarifies that the compact governs gaming only on Winnebago lands situated in the State of Iowa.

Dated: April 30, 1992.

ADDRESS: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS/MIB 4603, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ronal D. Eden, Bureau of Indian Affairs, Washington, DC 20240, (202) 208-3463.

Dated: April 22, 1992.

Eddie F. Brown,

Assistant Secretary, Indian Affairs.
[FR Doc. 92-10018 Filed 4-29-92; 8:45 am]

BILLING CODE 4310-02-M

Resident Trust Project

Thursday
April 30, 1992

Part X

Department of Housing and Urban Development

Office of the Assistant Secretary

Public and Indian Housing Drug
Elimination Program; Notice of Funding
Availability for FY 1992

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-92-3405; FR-3158-N-01]

NOFA for the Public and Indian Housing Drug Elimination Program (PHDEP)—FY-1992

AGENCY: Office of the Assistant Secretary for Public and Indian Housing.

ACTION: Notice of funding availability (NOFA) for Fiscal Year (FY) 1992.

SUMMARY: This NOFA announces HUD's FY 1992 funding of \$140,550,000 under the Public and Indian Housing Drug Elimination Program (PHDEP) for use in eliminating drug-related crime. Funded programs must be part of a comprehensive plan for addressing the problem of drug-related crime, such as Operation Weed and Seed, coordinated by the U.S. Department of Justice. In the body of this document is information concerning the purpose of the NOFA, applicant eligibility, available amounts, selection criteria, financial requirements, management, and application processing, including how to apply, how selections will be made, and how applicants will be notified of results.

DATES: Applications must be received on or before June 12, 1992, at 4 p.m., local time. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

ADDRESSES: (a) Application kit: An application kit may be obtained and assistance provided, from the local HUD Category A or B Field Office or other Field Office with delegated public housing responsibilities over an applying public housing agency (PHA), or from the Office of Indian Programs (OIP) having jurisdiction over the Indian housing authority (IHA) making an application, or by calling HUD's Resident Initiatives Clearinghouse, telephone 1-800-955-2232. The application package contains information on all exhibits and certifications required under this NOFA.

(b) Application Submission: Applications (original and two copies) must be received by the deadline at the

local HUD Category A or B Field Office or other Field Office with delegated public housing responsibilities over the applying PHA or, in the case of IHAs, to the local Office of Indian Programs with jurisdiction over the applying IHA. Attention: Director, Public Housing Division or Office of Indian Programs Director, as appropriate. It is not sufficient for an application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable. Applications received after the deadline will not be considered.

FOR FURTHER INFORMATION CONTACT: Malcolm E. Main, Drug-Free Neighborhoods Division, Office of Resident Initiatives, Public and Indian Housing, Department of Housing and Urban Development, room 4118, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-1197 or 708-3502. A telecommunications device for hearing or speech impaired persons (TDD) is available at (202) 708-0850. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The collection of information requirements contained in this NOFA have been approved by the OMB under the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2577-0124 expiration date, June 30, 1992.

Environmental Review

Grants under this program are categorically excluded from review under the National Environmental Policy Act of 1969 (NEPA) in accordance with 24 CFR 50.20(p). However, prior to an award of grant funds, HUD will perform an environmental review to the extent required by HUD's environmental regulations at 24 CFR part 50, including the applicable related authorities at 24 CFR 50.4.

Coordination of Anti-Crime Efforts

As part of the President's initiative to coordinate anticrime related activities across local, State, and Federal levels to maximize their effectiveness, applicants are encouraged to contact, and work with, Operation Weed and Seed through the U.S. Department of Justice. Operation Weed and Seed is a comprehensive, multi-agency approach to combatting violent crime, drug use, and gang activity in high-crime neighborhoods. The goal is to "weed out" crime from targeted neighborhoods and then to "seed" the targeted sites with a wide range of crime and drug prevention programs, and human

services agency resources to prevent crime from reoccurring. Operation Weed and Seed further emphasizes the importance of community involvement in combatting drugs and violent crime. Community residents need to be empowered to assist in solving crime-related problems in their neighborhoods. In addition, the private sector needs to get involved in reducing crime. All of these entities, Federal, State, and local government, the community and the private sector must work together in partnership to create a safer, drug-free environment.

The Weed and Seed strategy involves four basic elements:

1. Law enforcement must "weed out" the most violent offenders by coordinating and integrating the efforts of Federal, State, and local law enforcement agencies in targeted high-crime neighborhoods. No social program or community activity can flourish in an atmosphere poisoned by violent crime and drug abuse.

2. Local police departments should implement community policing in each of the targeted sites. Under community policing, law enforcement works closely with residents of the community to develop solutions to the problems of violent and drug-related crime. Community policing serves as a "bridge" between the "weeding" (law enforcement) and "seeding" (neighborhood revitalization) components.

3. After the "weeding" takes place, law enforcement and social services agencies, the private sector, and the community must work to prevent crime and violence from reoccurring by concentrating a broad array of human services—drug and crime prevention programs, drug treatment, educational opportunities, family services, and recreational activities—in the targeted sites to create an environment where crime cannot thrive.

4. Federal, State, local, and private sector resources must focus on revitalizing distressed neighborhoods through economic development and must provide economic opportunities for residents.

For further information on Operation Weed and Seed, contact Terrance Donahue, Acting Director, Office of Planning Management and Budget, Office of Justice Programs, U.S. Department of Justice, 366 Indiana Avenue, NW., Washington, DC., 20531. Telephone (202) 307-5966.

I. Purpose and Substantive Description**(a) Authority**

This program is authorized under chapter 2, subtitle C, title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 *et seq.*), as amended by section 581 of the National Affordable Housing Act of 1990 (NAHA), approved November 28, 1990, Public Law 101-625 and regulations at 24 CFR part 261. The Department is amending 24 CFR part 961 to incorporate changes made by section 581 of NAHA.

(b) Allocation Amounts**(1) Federal Fiscal Year 1992 Funding**

The amount available for funding under this NOFA in FY 1992 is \$140,550,000. The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act 1992, (approved October 28, 1991, Pub. L. 102-139), (92 App. Act) appropriated \$165 million for the Drug Elimination Program and for drug information clearinghouse services for FY 1992. Of this amount, \$5.7 million is to be used for technical assistance and training for or on behalf of public housing agencies, Indian housing authorities and resident organizations. The clearinghouse services have been allocated at \$500,000. In addition, section 520 of NAHA sets aside five percent of funds appropriated for the Drug Elimination Program for the Youth Sports Program (YSP), a total figure of \$8.25 million for FY 1992. Section 581 of NAHA expanded the Drug Elimination Program to include Federally assisted, low-income housing, and the 1992 Appropriations Act made \$10 million of the total Drug Elimination Program appropriation available for Federally assisted, low-income housing. A separate NOFA for this area will also be issued. Finally, a total of \$95,000 is being awarded out of Region IV's allocation to two successful FY 1991 applicants in Region IV (\$88,000 to the Augusta Housing Authority, Augusta, Georgia; \$7,000 to the Housing Authority, City of Brunswick, Georgia) that did not receive the full allowable amount of their awards because of technical, computational errors. This means that although \$34,576,138 is the amount allocated in FY 1992 to Region IV, the amount available for awards in Region IV under this NOFA is \$34,481,138. The amount remaining in the FY 1992 appropriation after the above deductions, \$140,455,000, is the total funding available under the 92 App. Act for PHDEP grants under this NOFA.

In addition to the amounts available under the 92 App. Act, the Treasury Postal Appropriations Act (approved October 28, 1991, Pub. L. 102-141) provided that funds over \$131,125,000 in the Forfeiture Fund were to be made available to the Department's Drug Elimination Program and the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) of the Department of Health and Human Services (HHS). If and when these funds actually become available, they will be awarded according to the reallocation procedures of this NOFA.

HUD is distributing grant funds under this NOFA to each of its 10 Regional Offices according to a formula allocation. The formula allocation is based upon the relationship of the number of public and Indian housing units per region and the level of drug-related crime within each region, using statistics compiled by the U.S. Department of Justice, Federal Bureau of Investigation, ("Uniform Crime Reports for Drug Abuse Violations—1990").

(2) Maximum Grant Award Amounts

Maximum grant award amounts are computed on a sliding scale, using either an overall cap to the grant award or a maximum per unit cap, depending upon the number of public housing agency-owned or Indian housing authority-owned rental, Turnkey III Homeownership, and Mutual Help Homeownership units. Units in a section 23 Leased Housing Bond-Financed project that have been conveyed or will be conveyed with clear title to the PHA at the end of the bond term will also be included in the unit count. Such a project must be covered by a cooperation agreement during the period of the grant award. Unit counts will be taken from PHA/IHA low-rent public housing operating budget (form HUD-52564) for fiscal year ending December 31, 1990, March 31, June 30, or September 30, 1991. HUD will verify unit counts with the System for Management Information Retrieval-Public Housing (SMIRPH) and Management Information Retrieval System (MIRS) before awards are made.

The maximum grant awards are as follows, although, as discussed below, in section I.(b)(4), the Department may adjust the amount of any grant award:

(i) For housing authorities with 1-499 units: the maximum grant award is either a maximum cap of \$500 per unit or a maximum grant award of \$50,000, whichever is greater;

(ii) For housing authorities with 500-4,999 units: the maximum grant award is \$200 per unit, or a maximum grant award of \$250,000, whichever is greater;

(iii) For housing authorities with 5,000-44,999 units: the maximum grant award is a maximum cap of \$150 per unit, but not more than a total maximum grant award of \$6 million;

(iv) For housing authorities with 45,000 or more units: the maximum grant award is a maximum cap of \$100 per unit, or a maximum grant award of \$6 million, whichever is greater;

To give an example under this scale, a housing authority with 19,000 units could apply for a maximum grant award of \$2,850,000, i.e. \$150 per unit X 19,000 units = \$2,850,000, which is greater than the maximum flat grant award of \$1,000,000.

An applicant shall not apply for more funding than is permitted in accordance with the maximum grant award amount as described above in this section. Any application requesting funding that exceeds the maximum grant award amount permitted will be rejected and will not be eligible for any funding unless a computational error was involved in the funding request. Section III.(a)(2) of this NOFA requires applicants to compute the maximum grant award amount for which they are eligible (eligible dollar amount per unit x (times) number of units listed in low-rent public housing operating budget (form HUD-52564) for fiscal year ending December 31, 1990, March 31, June 30, or September 30, 1991 and compare it with the dollar amount requested in the application to make certain the amount requested does not exceed the maximum grant award.

(3) Reallocation

Any grant funds under this NOFA that are allocated to a region, but that are not reserved for specific grantees, must be returned to HUD Headquarters for reallocation. All awards will be made to fund fully an application, except as provided in paragraph I.(b)(4) below. Any remaining funds that would only partially fund an application after all higher-ranked applications have been funded will be returned to HUD Headquarters to be reallocated. Amounts that become available due to deobligation of grant amounts will also be reallocated.

All reallocated funds will be awarded on a nationwide basis in the following manner. Each Regional Office will send a list of all its unfunded applications that scored more than 80 points (i.e., 81 or above) to Headquarters. These applications will then be ranked on a nationwide basis and fully funded according to rank until all reallocated funds have been awarded. This method will be followed to ensure a more

equitable distribution of reallocated funds among the regions.

(4) Reduction of Requested Grant Amounts and Special Conditions

HUD may approve an application for an amount lower than the amount requested, withhold funds after approval, and/or the grantee will be required to comply with special conditions added to the grant agreement, in accordance with 24 CFR part 85.12, the requirements of this NOFA, or where:

- (i) HUD determines the amount requested for one or more eligible activities is unreasonable or unnecessary;
- (ii) The application does not otherwise meet applicable cost limitations established for the program;
- (iii) The applicant has requested an ineligible activity;
- (iv) Insufficient amounts remain in that funding round to fund the full amount requested in the application and HUD determines that partial funding is a viable option;
- (v) The applicant has demonstrated an inability to manage HUD grants, particularly Drug Elimination Program grants; or
- (vi) For any other reason where good cause exists.

(5) Distribution of Funds

In FY 1992, HUD is distributing grant funds to its 10 regional offices in accordance with the following schedule:

HUD region	Allocation
Region I.....	\$7,338,124
Region II.....	28,564,286
Region III.....	14,424,234
Region IV.....	34,481,138
Region IV set-aside.....	95,000
Region V.....	22,349,955
Region VI.....	14,955,637
Region VII.....	4,002,607
Region VIII.....	2,344,616
Region IX.....	9,034,247
Region X.....	2,960,157
Total.....	140,550,000

(c) Eligibility

The following is a listing of eligible activities, eligible applicants, ineligible activities, and general program requirements under this NOFA:

(1) *Employment of security personnel.*
(i) Employment of security personnel in public and Indian housing projects is permitted under this program.

(ii) Security personnel shall not be employed under this section to provide any services except those over and above what the local government is obligated to provide by statute,

ordinance or regulation, as well as contractually under its Cooperation Agreement with the PHA or IHA (as required by the applicant's Annual Contributions Contract).

(iii) Security personnel funded by this program must be employed to perform services not usually performed by local law enforcement agencies on a routine basis, such as, patrolling inside buildings, providing guard services at building entrances to check for ID's, or patrolling and checking parking lots for cars without appropriate parking decals.

(iv) Security personnel funded by this program must meet all relevant State, tribal, or local government insurance, licensing, training, bonding, or other similar requirements.

(v) The applicant, the cooperating local law enforcement agency, and the provider of the security personnel are required, before employing the security personnel, to enter into and execute a written agreement that describes the following:

(A) The nature of the activities to be performed by the security personnel, and their scope of authority;

(B) The types of activities that the security personnel are expressly prohibited from undertaking.

(2) *Reimbursement of local law enforcement agencies for additional security and protective services.* (i) Additional security and protective services to be funded under this program must be over and above those that the State, local or federally-recognized tribal government is contractually obligated to provide under its Cooperation Agreement with the PHA or IHA (as required by the applicant's Annual Contributions Contract). The additional services must be verifiable through time sheets and written work assignments.

(ii) Communications and security equipment to improve the collection, analysis, and use of information about drug-related criminal activities in a public housing community, such as computers accessing national State, local and federally-recognized tribal government security networks and databases, facsimile machines, telephone equipment, bicycles, and motor scooters may be eligible items if used exclusively in connection with the establishment of a law enforcement presence, such as a sub-station or extra patrols, on the funded premises of the PHA or IHA. Funds for activities under this section may not be drawn until the grantee has executed a vendor contract for additional law enforcement services.

(iii) Funding is permitted for vendor service contracts for drug detection dogs used by law enforcement agencies. The

provider of this service must meet all relevant State, tribal, or local government insurance, licensing, training, bonding, or other similar requirements.

(3) *Physical improvements to enhance security.* (i) Physical improvements that are specifically designed to enhance security are permitted under this program. These improvements may include (but are not limited to) the installation of barriers, lighting systems, fences, bolts, locks; the landscaping or reconfiguration of common areas so as to discourage drug-related crime; and other physical improvements in public and Indian housing projects that are designed to enhance security and discourage drug-related activities.

(ii) An activity that is funded under any other HUD program, such as the modernization program at 24 CFR part 968 or 24 CFR part 905, shall not also be funded by this program.

(iii) Funding is not permitted for physical improvements that involve the demolition of any units in a project.

(iv) Funding is not permitted for any physical improvements that would result in the displacement of persons.

(v) Funding is not permitted for the acquisition of real property.

(vi) All physical improvements must also be accessible to persons with disabilities. For example, some types of locks, buzzer systems, etc., are not accessible to persons with limited strength, mobility, or to persons who are hearing impaired. All physical improvements must meet the accessibility requirements of 24 CFR part 8.

(4) *Employment of investigators.* (i) Employment of one or more individuals is permitted under this program to:

(A) Investigate drug-related crime and its incidental activities in or around the real property comprising any public or Indian housing project; and

(B) Provide evidence relating to any such crime or activity in any administrative or judicial proceedings.

(ii) Investigators funded by this program must meet all relevant State, tribal, or local government insurance, licensing, training, bonding, or other similar requirements.

(iii) The applicant, the cooperating local law enforcement agency, and the investigator(s) are required, before any investigators are employed, to enter into and execute a written agreement that describes the following:

(A) The nature of the activities to be performed by the investigators, and their scope of authority;

(B) The types of activities that the investigators are expressly prohibited from undertaking.

(5) *Voluntary tenant patrols.* (i) The provision of training, communications equipment, and other related equipment (including uniforms), for use by voluntary tenant patrols acting in cooperation with officials of local/tribal law enforcement agencies is permitted under this program. Members must be volunteers and must be tenants of the project that the tenant (resident) patrol represents. Patrols established under this program are expected to patrol for drug-related criminal activities in the projects, including buildings, proposed for assistance, and to report such activities to the cooperating local law enforcement agency and relevant State and Federal agencies, as appropriate. Grantees are required to obtain liability insurance to protect themselves and the members of the voluntary tenant patrol against potential liability for the activities of the patrol under this program. The cost of this insurance will be considered an eligible program expense.

(ii) The applicant, the cooperating local law enforcement agency, and the members of the tenant patrol are required, before putting the tenant patrol into effect, to enter into and execute a written agreement that describes the following:

(A) The nature of the activities to be performed by the tenant patrol, and the patrol's scope of authority;

(B) The types of activities that a tenant patrol is expressly prohibited from undertaking, to include but not limited to, the carrying or use of firearms or other weapons, nightsticks, clubs, handcuffs, or mace in the course of their duties under this program;

(C) The type of initial tenant patrol training and continuing training the members receive from the local law enforcement agency (training by the local law enforcement agency is required before putting the tenant patrol into effect);

(D) Tenant patrol members must be advised that they may be subject to individual or collective liability for any actions undertaken outside the scope of their authority and that such acts are not covered under a PHA's or IHA's liability insurance.

(iii) Communication and related equipment eligible for funding under this program shall be equipment that is reasonable, necessary, justified and related to the operation of the tenant patrol and that is otherwise permissible under State, local and federally-recognized tribal law.

(iv) Under this program, bicycles and uniforms (caps and other clothing items that identify voluntary tenant patrol members, including patrol t-shirts and jackets) to be used by the members of the tenant patrol are eligible items.

(v) Drug elimination grant funds may not be used for any type of financial compensation for voluntary tenant patrol participants, such as wages, salaries and stipends.

(6) *Programs to reduce the use of drugs.* Programs that reduce the use of drugs in and around the premises of public and Indian housing projects, including drug abuse prevention, intervention, referral and treatment programs are permitted under this program. The program should facilitate drug prevention, intervention and treatment efforts, to include outreach to community resources and youth activities, and facilitate bringing these resources onto the premises, or providing resident referrals to treatment programs or transportation to outpatient treatment programs away from the premises. Funding is permitted for reasonable, necessary and justified leasing of vehicles for resident youth and adult education and training activities directly related to "Programs to reduce the use of drugs" under this section. Alcohol-related activities/programs are not eligible for funding under this program.

(i) *Drug Prevention.* Drug prevention programs that will be considered for funding under this program must provide a comprehensive drug prevention approach for public and Indian housing residents that will address the individual resident and his or her relationship to family, peers, and the community. Prevention programs must include activities designed to identify and change the factors present in public or Indian housing that lead to drug-related problems, and thereby lower the risk of drug usage. Many components of a comprehensive approach, such as refusal and restraint skills training programs or drug-related family counseling, may already be available in the community of the applicant's housing projects, and the applicant must act to bring those available program components onto the premises. Funding is permitted for reasonable, necessary and justified program costs, such as meals, beverages and transportation, incurred ONLY FOR training and education activities directly related to "Drug prevention." Activities that should be included in these programs are:

(A) *Drug education opportunities* for public and Indian housing residents. The causes and effects of illegal drug usage

must be discussed in a formal setting to provide both young people and adults the working knowledge and skills they need to make informed decisions to confront the potential and immediate dangers of illegal drugs. Grantees may contract with drug education professionals to provide appropriate training or workshops. The drug education professionals contracted to provide these services shall be required to base their services upon the needs assessment and program plan of the grantee. These educational opportunities may be a part of resident meetings, youth activities, or other gatherings of public and Indian housing residents.

(B) *Family and other support services.* Drug prevention programs must demonstrate that they will provide directly or otherwise make available services designed to distribute drug education information, to foster effective parenting skills, and to provide referrals for treatment and other available support services in the project or the community for public and Indian housing families.

(C) *Youth services.* Drug prevention programs must demonstrate that they have included groups composed of young people as a part of their prevention programs. These groups must be coordinated by adults with the active participation of youth to organize youth leadership, sports, recreational, cultural and other activities involving public and Indian housing youth. The dissemination of drug education information, the development of peer leadership skills and other drug prevention activities must be a component of youth services. Activities or services funded under this program may not also be funded under the Youth Sports Program.

(D) *Economic/educational opportunities* for residents and youth. Drug prevention programs should demonstrate a capacity to provide public and Indian housing residents the opportunities for interaction with or referral to established higher education or vocational institutions with the goal of developing or building on the residents' skills to pursue educational goals, to include scholarship programs, and vocational and economic goals. The program must also demonstrate the ability to provide public and Indian housing residents the opportunity to interact with private sector businesses in their immediate community for the same desired goals.

(ii) *Intervention.* The aim of intervention is to identify and refer public and Indian housing resident drug users and to assist them in modifying their behavior or, if necessary, to obtain

early treatment. The applicant must establish a program with the goal of preventing drug problems for continuing once detected.

(iii) **Drug Treatment.** (A) Treatment funded under this program shall be in or around the premises of housing projects to provide tenants more effective treatment.

(B) Funds awarded under this program shall be targeted towards the development and implementation of new program services, or the improvement of, or expansion of, existing program services for public and Indian housing residents.

(C) Each proposed drug treatment program should address the following goals:

(1) Increase resident accessibility to drug treatment services;

(2) Decrease criminal activity in and around public and Indian housing projects by reducing illicit drug use among public and Indian housing residents; and

(3) Provide services designed for youth and/or maternal drug abusers, e.g., prenatal/postpartum care, specialized counseling in women's issues, parenting classes.

(D) Approaches that have proven effective with similar populations will be considered for funding. Treatment programs should meet the following criteria:

(1) Applicants may provide the service of formal referral arrangements to other treatment programs not in or around the assisted projects where the resident is able to obtain treatment costs from sources other than this program. Applicants may also provide transportation for residents to out-patient treatment and/or support programs.

(2) Provide family/collateral counseling.

(3) Provide linkages to educational/vocational counseling.

(4) Provide coordination of services to appropriate local drug, HIV-related service agencies, state mental health and public health programs.

(E) Applicants must demonstrate a working partnership with the Single State Agency or current state license provider, or authority (or in the case of an IHA, the local tribal commission, if applicable) with drug program coordination responsibilities to coordinate, develop and implement the drug treatment proposal.

(F) The Single State Agency or State license provider or authority (or in the case of an IHA, the local tribal commission, if applicable) with drug program coordination responsibilities must certify that the drug treatment

provider(s) has provided drug treatment services to similar populations, identified in the application, for two prior years.

(G) The Single State Agency or authority (or in the case of an IHA, the local tribal commission, if applicable) with drug program coordination responsibilities must certify that the drug treatment proposal is consistent with the State (or local tribal) treatment plan; and that the treatment provider(s) meets all State (or local tribal) licensing requirements.

(H) Funding is not permitted for treatment of residents at in-patient medical treatment programs/facilities.

(I) Funding is not permitted for detoxification procedures, short term or long term, designed to reduce or eliminate the presence of toxic substances in the body tissues of a patient.

(J) Funding is not permitted for maintenance drug programs. Maintenance drugs are medications that are prescribed regularly for a long period of supportive therapy (e.g. methadone maintenance), rather than for immediate control of a disorder.

(7) Resident Management Corporations (RMCs), Resident Councils (RCs), and Resident Organizations (ROs). Funding under this program is permitted for PHAs and IHAs to contract with RMCs and incorporated RCs and ROs to develop security and drug abuse prevention programs involving site residents. Such programs may include voluntary tenant patrol activities, drug education, drug intervention, referral, and outreach efforts.

(8) Continuation of current program activities. Current or previous PHDEP grant holders may apply, on the same basis as other applicants, for grants to continue their PHDEP activities or implement other program activities. The Department will evaluate an applicant's performance under any previous Drug Elimination Program grants within the past five years. The evaluation may result in awarding an applicant points for an effective performance under previous grants or deducting points for an ineffective performance where no measures were taken to address an ineffective performance under previous grants. The Department will review and evaluate the applicant's financial and program performance; reporting and special condition compliance; accomplishment of stated goals and objectives under the previous grant; and program adjustments made in response to previous ineffective performance. Since this is a competitive program, HUD does not guarantee continued

funding of any previously funded Drug Elimination Program Grant.

(9) Eligible applicants. Funding under this NOFA is available only for Public Housing Agencies and Indian Housing Authorities.

(10) Ineligible activities. Funding is not permitted for any of the activities listed below or those specified as ineligible elsewhere in this NOFA.

(i) Funding is not permitted for costs incurred before the effective date of the grant agreement, including, but not limited to, consultant fees for surveys related to the application or the actual writing of the application.

(ii) Funding is not permitted for the purchase of controlled substances for any purpose, including sting operations.

(iii) Funding is not permitted for compensating informants, including confidential informants.

(iv) Funding is not permitted for the purchase of vehicles, including cars, vans, buses, motorcycles, scooters, or motor bikes, except as specified in this NOFA.

(v) Funding is not permitted to purchase or lease any military or law enforcement clothing or equipment, such as, uniforms, ammunition, firearms/weapons, military or police vehicles, protective vests, etc.

(vi) Funding is not permitted for any type of financial compensation, such as wages, salaries or stipends, for voluntary participants.

(vii) Funding is not permitted for the cost of leasing, acquiring, constructing or rehabilitating any facility space in a building or unit.

(viii) Funding is not permitted for organized fund raising, advertising, financial campaigns, endowment drives, solicitation or gifts and bequests, rallies, marches, community celebrations and similar expenses.

(ix) Funding is not permitted for the costs of entertainment, amusements, or social activities, and for the expenses of items such as meals, beverages, lodgings, rentals, transportation, and gratuities related to these ineligible activities. However, funding is permitted for reasonable, necessary and justified program costs, such as meals, beverages and transportation, incurred ONLY FOR training, and education activities directly related to "Drug prevention."

(x) Funding is not permitted for the costs (court costs, attorneys fees, etc.) related to screening or evicting residents for drug-related crime. However, investigators funded under this program may participate in judicial and administrative proceedings as provided in paragraph I.(c)(5)(iii) of this NOFA.

(xi) Although participation in activities with Federal drug interdiction or drug enforcement agencies is encouraged, the transfer of Drug Elimination Program funds to any Federal agency is not permitted.

(xii) Alcohol-related activities/programs are not eligible for funding under this program.

(xiii) Funding is not permitted under this NOFA for establishing councils, resident associations, resident organizations, and resident corporations since HUD funds these activities under a separate NOFA.

(xiv) Indirect costs as defined in OMB Circular A-87 are not permitted under this program.

(xv) Funding is not permitted for any cash awards, such as scholarships, prizes, etc. However, certificates, trophies and other non-cash awards of nominal value related to achievement of goals related to this program are permitted.

(d) Selection Criteria and Ranking Factors

HUD will review each application to determine that it meets the requirements of this NOFA and to assign points in accordance with the selection criteria. After assigning points to each application, HUD will rank the applications in order, by HUD Region. An application must receive a score of more than 80 (i.e., 81 or above) points out of the maximum of 120 points that may be awarded under this competition to be eligible for funding. HUD will select the highest ranking applications that can be fully funded within each Region. Applications with tie scores will be selected in accordance with the procedures in section I(e). Any remaining funds will be reallocated and awarded on a nationwide basis as discussed in section I(b)(3), above. Each application submitted for a grant under this NOFA will be evaluated on the basis of the following selection criteria:

(1) *The extent of the drug-related crime problem in the public or Indian housing project or projects proposed for assistance.* (Maximum points: 40) In assessing this criterion, HUD will consider the following factors:

(i) The nature and frequency of drug-related crime and problems associated with drug-related crime, as reflected by:

(A) Crime statistics and other data provided in accordance with the plan requirements at section III.(c)(1) of this NOFA.

(ii) In awarding points, HUD will evaluate the extent to which the applicant has provided data that reflect a severe drug-related crime problem, both in terms of the frequency and

nature of the drug-related crime incidents and the problems associated with drug-related crime in the projects proposed for funding; and the extent to which such data reflect an increase in drug-related crime over a period of time in the projects proposed for assistance. A reduction in drug-related crime in projects where previous Drug Elimination Program grants have been in effect will not be considered a disadvantage to the applicant. (Maximum points under paragraphs (i) and (ii) of this section: 30)

(iii) The relative severity of the drug-related crime and the problems associated with drug-related crime in the applicant's projects, as reflected by the information submitted under paragraph (1)(i) of this section, in comparison to other applications submitted for funding under this program. (Maximum points: 5)

(iv) The extent to which the applicant has analyzed the data compiled under paragraph (1)(i) of this section, and has clearly articulated its needs for reducing drug-related crime in the projects proposed for assistance. (Maximum points: 5)

(2) *The quality of the plan to address the crime problem in the public or Indian housing projects proposed for assistance, including the extent to which the plan includes initiatives that can be sustained over a period of several years.* (Maximum points: 30) In assessing this criterion, HUD will consider the following factors:

(i) The extent to which the applicant establishes a relationship between its drug-related crime problem as identified in its plan assessment and its strategy for eliminating drug-related crime under the plan; the extent to which the applicant has considered and articulated its strategy goals and objectives; the extent to which the applicant's strategy provides for a comprehensive approach to eliminating drug-related crime in its projects (e.g., the strategy includes management practices, enforcement/security techniques, and a combination of intervention, referral, treatment and prevention programs); and the extent to which funding under this program will be targeted to the applicant's identified needs. (Maximum points: 10)

(ii) The extent to which the applicant's strategy is realistic, given the amount of funding requested under this program in relation to the overall strategy, and the timetable indicated by the applicant for beginning and completing each component of the strategy; the extent to which the applicant provides a cost analysis for each component of its strategy and describes the financial and

other resources (as applied for under this NOFA and from other sources) that may reasonably be expected to be available to carry out each component; the extent to which the applicant describes the activities to be funded under this NOFA and indicates how such activities will be coordinated with, and complemented by, current services; and the extent to which the applicant describes how funding decisions were reached. (Maximum points: 5)

(iii) The extent to which the applicant has developed an evaluation process that includes measures it believes to be critical in evaluating the success of the plan; the extent to which the applicant has described in its plan the information to be gathered, and the method to be used to gather this information; and the extent to which the applicant relates the evaluation process to its assessment of the drug-related crime problem in the targeted projects (e.g., tracking of changes in identified crime statistics). (Maximum points: 10)

(iv) The extent to which the plan identifies non-HUD resources that the applicant reasonably expects to be available for the continuation of the program at the end of the grant term and the extent to which the applicant identifies initiatives that can be sustained over a period of years beyond the grant term. (Maximum points: 5)

(3) *The capability of the applicant to carry out the plan.* (Maximum points: 30) In assessing this criterion, HUD will consider the following factors:

(i) The extent of the applicant's administrative capability to manage its housing projects, as measured by its performance with respect to operative HUD requirements under the ACC and 24 CFR part 901. In evaluating administrative capability under this factor, HUD will also consider whether there are any unresolved findings from prior HUD reviews or audits undertaken by the Inspector General, the General Accounting Office, or Independent Public Accountants; whether the applicant is operating under court order; and, if applicable, the progress made by a Troubled PHA in achieving goals established under a Memorandum of Agreement executed with HUD. (Maximum points: 5)

(ii) The extent to which the applicant has implemented effective screening procedures to determine an individual's suitability for public or Indian housing (consistent with the requirements of 42 U.S.C. 3604(f) and 24 CFR 100.202, and 29 U.S.C. 794 and 24 CFR part 8.4 which deal with individuals with disabilities); implemented a plan to reduce vacancies; implemented eviction procedures in

accordance with 24 CFR part 966, Subpart B, and Section 503 of NAHA; or undertaken other management practices to eliminate drug-related crime in its projects. (Maximum points: 5)

(iii) The extent of, and degree of, success reflected by the applicant's prior track record in implementing and managing HUD grant programs (such as CIAP, youth sports, child care, resident management, etc.), and other Federal grant programs. (Maximum points: 5)

(iv) The extent to which the applicant has already undertaken successful anti-drug related crime efforts (such as Operation Weed and Seed, coordinated by the U.S. Department of Justice) that will serve as the foundation for the proposed grant under this program. (Maximum points: 5)

(v) The extent of the applicant's success, effort, or failure in implementing and managing an effective program under previous Drug Elimination Program grants. A successful and effective management of a previous grant program, or an effort to make adjustments to an ineffective program, will result in up to 10 extra points. Evidence of an unjustified failure to make adjustments to an ineffective program will result in a deduction of up to 10 points. (Maximum points: +10 or -10)

(4) *The extent to which tenants, the local government and the local community support and participate in the design and implementation of the activities proposed to be funded under the application.* (Maximum points: 20) In assessing this criterion, HUD will consider the following factors:

(i) The extent to which the local community, as represented by local organizations, businesses, and residents, and local government, through its agencies and officials, participate in the design and implementation of the applicant's plan (evidence of support and participation by the local government and community in the design and implementation of the applicant's plan would be, for example, the applicant's participation in a program such as Operation Weed and Seed, coordinated by the U.S. Department of Justice, or the extent to which the applicant has leveraged funds and other resources from other public and private sources). (Maximum points: 7)

(ii) The extent to which the relevant government jurisdiction has met its law enforcement obligations under the Cooperation Agreement with the applicant (as required by the grantee's Annual Contributions Contract with HUD). (Maximum points: 5)

(iii) The extent to which project tenants, and an RMC, RC, or RO, where they exist, are involved in the planning and development of the grant application and plan strategy, and support and participate in the design and implementation of the activities proposed to be funded in the targeted developments under the application as reflected by information provided by the applicant, augmented with information concerning tenants, the applicant's response to tenant and RMC/RC or RO comments, and the certification of resident involvement. (Maximum points: 8)

(e) *Ranking Factors*

Each application for a grant award that is submitted in a timely manner to the local HUD Field Office with delegated public housing responsibilities or, in the case of IHAs, to the appropriate Office of Indian Programs, and that otherwise meets the requirements of this NOFA, will be evaluated in accordance with the selection criteria specified above. Applications from PHAs will be evaluated and scored by the HUD Field and Regional Offices with jurisdiction over the housing authority. Applications from IHAs will be jointly evaluated and scored by the Office of Indian Programs and the Regional Office with jurisdiction over the housing authority. An application must receive a score of more than 80 (i.e., 81 or above) points out of the maximum of 120 points that may be awarded under this competition to be eligible for funding. Each HUD Regional Office will rank the eligible applications for its region based upon their overall rating scores. Grants will be awarded by each HUD Regional Office to the highest-ranked applications within its region.

In the event that two eligible applications in the region receive the same score, and both cannot be funded because of insufficient funds, the application with the highest score in Factor 3 (The Capability of the Applicant to Carry Out the Plan) will be selected. If Factor 3 is scored identically for both applications, the scores in Factors 1, 2, and 4 will be compared in this order, one at a time, until one application scores higher in one of the factors and is selected. If the applications score identically in all factors, the application that requests less funding will be selected.

All awards will be made to fund fully an application, except as provided in paragraph I.(b)(4) above. Any remaining funds that would only partially fund an application after all higher-ranked applications have been funded will be

returned to HUD Headquarters to be reallocated in accordance with paragraph I.(b)(3), above. Amounts that become available due to deobligation of grant amounts because they could not be awarded will also be reallocated.

(f) *General Grant Requirements*

The following requirements apply to all programs, functions, or activities that will be used to plan, budget and evaluate the work funded under this program.

(1) Grantees are required to use grant funds under this part in accordance with this NOFA, 24 CFR part 961, 24 CFR part 85, applicable statutes, regulations, OMB circulars, grant agreements, and the grantee's approved budget (SF-424 and 424A), plan, and timetable.

(2) Applicability of OMB Circulars and HUD fiscal and audit controls. The policies, guidelines, and requirements of this NOFA, 24 CFR part 961, 24 CFR part 85, and OMB Circular A-87 apply to the acceptance and use of assistance by grantees under this part; and OMB Circulars Nos. A-110 and A-122 apply to the acceptance and use of assistance by private nonprofit organizations (including RMCs, RCs and ROs). In addition, grantees and subgrantees must comply with fiscal and audit controls and reporting requirements prescribed by HUD, including the system and audit requirements under the Single Audit Act, OMB Circular No. A-128 and HUD's implementing regulations at 24 CFR part 44; and OMB Circular No. A-133.

(3) Cost Principles. Specific guidance in this NOFA, OMB Circular A-87, other applicable OMB cost principles, HUD program regulations, HUD Handbooks, and the terms of grant/special conditions and subgrant agreements will be followed in determining the reasonableness and allocability of costs. All costs must be reasonable, necessary and justified. Grant funds must be used only for Drug Elimination Program purposes. Direct costs are those that can be identified specifically with a particular activity or function in this NOFA and cost objectives in OMB Circular A-87. Indirect cost are not permitted in this program.

Administrative requirements for Drug Elimination Program grants will be in accordance with 24 CFR part 85. Acquisition of property or services shall be in accordance with 24 CFR 85.36. All equipment acquisitions will remain the property of the grantee in accordance with 24 CFR 85.32. IHA procurement standards are in 24 CFR part 905.

(4) Grant Staff Personnel. (i) All persons or entities compensated by the

grantee for services provided under a Drug Elimination Program grant must meet all applicable personnel or procurement requirements and shall be required as a condition of employment to meet all relevant State, local and federally-recognized Indian tribal government, insurance, training, licensing, or other similar standards and requirements.

(ii) Compensation for personnel (including supervisory personnel, such as a grant administrator or drug program coordinator and support staff such as counselors and clerical staff) hired for grant activities is permitted and may include wages, salaries, and fringe benefits.

(iii) All grant personnel must be necessary, reasonable and justified. Job descriptions must be provided for all grant personnel. Excessive staffing is not permitted.

(iv) PHA-IHA staff employees shall be compensated with grant funds only for work performed directly for PHDEP grant-related activities and shall document the time and activity involved in accordance with 24 CFR 85.20.

(5) Term of Grant. Terms of the grant project may not exceed 24 months from the date of execution of the grant agreement, unless an extension is approved by the local Field Office. After the award of the grant the maximum extension allowable for any project period is 6 months.

(6) Duplication of Funds. To prevent duplicate funding of any activity, the grantee must establish controls to assure that an activity or program that is funded by other HUD programs, such as modernization or CIAP, or programs of other Federal agencies, shall not also be funded by the Drug Elimination Grant Program. The grantee must establish an auditable system or provide adequate accountability for funds which it has been awarded.

(7) Terminating of Funding. HUD may terminate funding if the grantee demonstrates an unwillingness or inability to: attain program goals; establish procedures that will minimize the time elapsing between cash advances and disbursements; adhere to grant agreement requirements or special conditions; avoid engaging in improper award and administration of contracts; or submit reliable and time reports; or where other good cause exists.

(8) Notification. After completion of the ranking and environmental reviews as required by 24 CFR part 961.25(b), HUD will send written notification to all applicants of whether or not they have been selected.

(9) Grant Agreement. After an application has been approved, HUD

and the applicant shall enter into a grant agreement setting forth the amount of the grant and its applicable terms, conditions, financial controls, payment schedule, and special conditions, including sanctions for violation of the agreement.

(10) Joint applications. Applicants may submit joint applications for a grant under this program. Joint applications for PHDEP grants occur when two or more applicants collaborate to prepare an application for a grant under which a lead co-applicant administers the program for all of the applicants. The following procedures apply to joint applications:

(i) A joint application will not result in a higher aggregated scoring than the individual applications would merit if they were submitted separately and rated separately.

(ii) All data, information, and eligibility requirements applicable to the submission of individual grant applications are also applicable to joint applications.

(iii) Individual co-applicants participating in a joint application cannot receive funds in excess of that which they would have received if they had submitted an application alone.

(See, "Maximum Grant Award Amounts" in section I.(b)(2).)

(iv) The joint application must include:

(A) Sufficient information to demonstrate a drug-related crime problem in the developments of each co-applicant targeted for funding;

(B) A "statement of responsibilities" delineating the specific activities to be performed by each co-applicant; and

(C) The amount of funding to be allocated to each co-applicant.

(v) One lead co-applicant will be selected by the co-applicants and designated as the payee to receive and disburse PHDEP funds, assigned the responsibility for administering the grant, and be responsible for supervision and program coordination of the other co-applicant(s) in accordance with the requirements of this program. Among the responsibilities of the lead co-applicant are:

(A) The lead co-applicant must sign the SF-424 on behalf of the co-applicants making the joint application;

(B) The lead co-applicant must sign and accept the required PHDEP assurances and certifications;

(C) The award acceptance must be signed and accepted by the lead co-applicant;

(D) The lead co-applicant shall enter into a grant agreement setting forth the amount of the grant and its applicable terms, conditions, financial controls,

payment schedule, and special conditions, including sanctions for violation of the agreement; and

(E) The lead co-applicant shall be responsible for the completion of the program activities and the submission of all required reports.

II. Application Process

(a) Application Kit

An application kit may be obtained and assistance provided, from the local HUD Category A or B Field Office or other Field Office with delegated public housing responsibilities over an applying public housing agency (PHA), or from the Office of Indian Programs (OIP) having jurisdiction over the Indian housing authority (IHA) making application, or by calling HUD's Resident Initiatives Clearinghouse, telephone 1-800-955-2232. The application package contains information on all exhibits and certifications required under this NOFA.

(b) Application Submission

Applications are due on or before June 12, 1992, at 4 p.m. local time. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. Applications (original and two copies) must be physically received by the deadline at the local HUD Category A or B Field Office or other Field Office with delegated public housing responsibilities over the applying PHA, or, in the case of IHAs, to the local HUD Office of Indian Programs with jurisdiction over the applying IHA, Attention: Director, Public Housing Division or Office of Indian Programs Director, as appropriate. It is not sufficient for an application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable. Applications received after the deadline will not be considered.

III. Checklist of Application Submission Requirements

To qualify for a grant under this program, an applicant must submit an application to HUD that contains the following:

(a) Application for Federal Assistance, Standard Form (SF) 424 and SF-424A, including and budget narrative describing each major activity proposed

for funding (e.g., employment of security personnel, reimbursement of local law enforcement, physical improvements, employment of investigators, tenant patrols, drug prevention, intervention, and treatment programs to reduce the use of drugs). The SF-424 is the face sheet for application. A copy of the form is provided with the application kit. This document must be signed and dated by the Executive Director of the applying PHA/IHA.

(b) Applicants must compute the maximum grant award amount for which they are eligible (eligible dollar amount per unit x (times) number of units listed in the low-rent public housing operating budgets (form HUD-52564) for fiscal year ending December 31, 1990, March 31, June 30, or September 30, 1991 and compare it with the dollar amount requested in the application to make certain the amount requested does not exceed the permitted maximum grant award. Individual co-applicants participating in a joint application cannot receive funds in excess of that which they would have received if they had submitted an application alone.

(c) A plan for addressing the problem of drug-related crime on the premises of the housing for which the application is being submitted. The plan must contain the following elements:

(1) Assessment of problem. An assessment of the drug-related crime problem, and the problems associated with drug-related crime, in the projects administered by the applicant and that are proposed for funding under this part. This assessment, which must describe the nature and scope of these problems, is intended to serve as the basis and rationale for determining the applicant's drug elimination strategy. In addition, the assessment must identify the applicant's demonstrated need and indicate how the activities proposed for funding under this part will address that need. The assessment must include:

(i) Objective data. The best available objective data on the nature, source, and extent of the problem of drug-related crime, and the problems associated with drug-related crime. These data may include (but not necessarily be limited to) crime statistics from Federal, State, tribal or local law enforcement agencies, or information from the applicant's records on the types and sources of drug-related crime in the projects proposed for assistance; descriptive data as to the types of offenders committing drug-related crime in the applicant's projects (e.g., age, residence, etc.); the number of lease terminations or evictions for drug-related criminal activity; the number of emergency room

admissions for drug use or drug-related crime; the number of police calls for drug-related criminal activity; the number of residents placed in treatment for substance abuse; and the school drop-out rate and level of absenteeism for youth. If crime statistics are not available at the project or precinct level, the applicant may use other reliable, objective data including those derived from its records or those of RMCs, RCs, or ROs. The crime statistics should be reported both in real numbers, and as a percentage of the residents in each project (e.g., 20 arrests for distribution of heroin in a project with 100 residents reflects a 20% occurrence rate). The data should cover the past three-year period and, to the extent feasible, should indicate whether these data reflect a percentage increase or decrease in drug-related crime over the past several years. Applicants must address in their assessment how these crimes have affected the PHA's or IHA's targeted projects, and how the applicant's overall plan and strategy under paragraph (3) of this section is specifically tailored to address these drug-related crimes problems associated with drug-related crimes.

(ii) Other data on the extent of drug-related crime. To the extent that objective data as described under paragraph (1)(i) of this section may not be available, or to complement that data, the assessment may use relevant information from other sources that have a direct bearing on drug-related crime problems in the projects proposed for assistance under this part. However, if other relevant information is to be used in place of, rather than to complement, objective data, the application must indicate the reason(s) why objective data could not be obtained and what efforts were made to obtain it. Examples of other data include: resident/staff surveys on drug-related issues or on-site reviews to determine drug activity; the use of local government or scholarly studies or other research conducted in the past year that analyze drug activity in the targeted projects; vandalism costs and related vacancies attributable to drug-related crime; information from schools, health service providers, residents and police; and the opinions and observations of individuals having direct knowledge of drug-related crime problems concerning the nature and extent of those problems in the projects proposed for assistance. (These individuals may include law enforcement officials, resident or community leaders, school officials, community medical officials, drug treatment or counseling professionals, or other social service providers.)

(iii) Methodologies. The assessments provided under paragraphs (1)(i) and (1)(ii) of this section can be accomplished through a variety of methods, using more than one existing source of information. Some examples of assessments include: surveys; on-site reviews/management reviews; statistical indicators (such as type of crimes, area where the offenders reside, age of offenders, school attendance, health service referrals, grade point averages, vandalism costs, vacancy rates, unemployment rates, library check out records, etc.); research or studies conducted by local officials; and analysis of a particular drug-related crime problem.

(iv) Program evaluation. The applicant must specify the measures that it believes to be important in evaluating the success of the plan, including goals that relate back to assessment data provided under paragraphs (1)(i) and (1)(ii) of this section; discuss the types of information the applicant will need to measure the plan's success; and indicate the method by which the applicant will gather and analyze this information.

(2) Current and past activities to address problem. The plan must include a narrative discussion of the applicant's current activities, if any, to eliminate drug-related crime in its targeted projects, including its efforts to implement screening procedures to determine an applicant's suitability for public housing (consistent with the requirements of 42 U.S.C. 3604(f) and 24 CFR 100.202, and 29 U.S.C. 794 and 24 CFR part 8.4 which deal with individuals with disabilities); its efforts to implement eviction procedures in accordance with 24 CFR part 966, subpart B, and section 503 of NAHA; its efforts to implement a plan to reduce vacancies; or its other management practices to eliminate drug-related crime in the targeted projects; the applicant should also describe its experience, if any, in implementing and managing other HUD grant programs (e.g. CIAP, youth sports, child care, etc.), and other Federal anti-drug related crime programs; describe the current activities, if any, being undertaken by community and governmental entities, project residents, RMCs, RCs, or ROs to address the problem of drug-related crime in the projects proposed for assistance; and provide a listing of the names of agencies or other entities (including the applicant), if any, currently providing assistance to address the drug-related crime problem in the targeted projects describe what assistance they are providing;

(3) Strategy for addressing problem. A narrative discussion of the applicant's strategy for addressing the problem of drug-related crime in each of the projects proposed for assistance under this part must be included in the plan. At a minimum, the discussion must include the following information:

(i) A narrative describing each major activity in the applicant's strategy and how these components interrelate. The applicant should specifically address whether it plans to implement a comprehensive drug elimination strategy that involves management practices, enforcement/security techniques, and a combination of drug abuse prevention, intervention, referral, and treatment programs. In addition, the applicant should indicate how its proposed activities will complement, and be coordinated with, current services.

(ii) The anticipated cost of each component of the strategy, and the financial and other resources (including funding under this part, and from other resources) that may reasonably be expected to be available to carry out each component;

(iii) A timetable for beginning and completing each component of the strategy.

(iv) The role of tenants, and RMCs, RCs, or ROs, where they exist, in planning and developing the grant application and strategy, and in implementing the applicant's plan. The applicant must provide the name of the RMC or incorporated RC or RO that will develop any security-related or drug abuse prevention programs under section I.(c)(8) of this NOFA involving site residents.

(v) The applicant must also describe the role of any other entities (e.g., local and State governments and community organizations) in planning and carrying out the strategy, such as providing letters of commitment from governmental or private entities which may include any financial or other resources (e.g., staff or in-kind resources) that they agree to provide for the applicant's anti-drug related crime efforts under this program.

(vi) The resources that the applicant may reasonably expect to be available at the end of the grant term to continue the anti-drug related effort and how they will be allocated to plan initiatives that can be sustained over a period of years;

(vii) If grant amounts are to be used for physical improvements under section I.(c)(3) of this NOFA, a statement as to how these improvements will be coordinated with the applicant's modernization program under 24 CFR part 968 or 24 CFR part 905;

(viii) If grant amounts are to be used for prevention, intervention or treatment programs to reduce the use of drugs in and around the premises of public or Indian housing projects under section I.(a)(6) of this NOFA, a statement by the applicant as to the nature of the program, a discussion of how the program represents a prevention or intervention strategy, and how the program will further the PHA's or IHA's strategy to eliminate drug-related crime in the projects proposed for assistance.

(d) If the applicant has received any Drug Elimination Program grants within the past five years, the application must include:

(1) In accordance with 24 CFR part 961, copies of all required semi-annual performance reports, financial report, and post-grant reports prepared in connection with these grants;

(2) Copies of all Drug Elimination Program grant HUD reviews and all audit report findings directly related to Drug Elimination Program grants.

(3) A narrative description of the results achieved by the applicant under these grants, using the evaluation measures developed in the applications for these grants that correspond to those required in section III.(c)(1)(iv) of this NOFA (i.e., "The applicant must specify the measures that it believes to be important in evaluating the success of the plan, including goals that relate back to the assessment data provided under paragraph (i); discuss the types of information the applicant will need to measure the plan's success; and indicate the method by which the applicant will gather and analyze this information;"). If the applicant has an on-going grant program, the narrative must be current as of the last semi-annual and all previous report periods for the grant. If the narrative indicates that the program's goals are not being met, the applicant must discuss the reasons for the program's lack of success and what efforts are being made to remedy the lack of success. The applicant must also discuss how the program for which funding is requested under this NOFA either builds upon and maintains the success of these previously funded programs or remedies the lack of success of these previously funded programs.

(e) A summary of each written resident and resident organization comment, as required by 24 CFR 961.18, and the applicant's response to and action on these comments. The applicant must provide a detailed explanation if there are no resident or resident organization comments.

(f) Certifications and Assurances. Chief Executive Officer (CEO)

Certifications and Public Housing Agency/Indian Housing Authority Assurances. The chief executive officer of the unit of local general government or Indian tribe and the Executive Director of the PHA/IHA in which the projects proposed for assistance are located must sign and date the certifications or assurances provided in the application kit.

(g) Applicant Data Form. The applicant must complete the required information for database entry. The form is provided in the application kit.

(h) HUD Form 2880, Applicant Disclosures. The form is provided in the application kit.

(i) The applicant must provide job descriptions for all proposed grant personnel to be hired.

(j) If the application is a joint application prepared by co-applicants, it must include:

(1) Sufficient information to demonstrate a drug-related crime problem in the developments of each co-applicant targeted for funding;

(2) A "statement of responsibilities" delineating the specific activities to be performed by each co-applicant; and

(3) The amount of funding to be allocated to each co-applicant; and

(4) The identification of one lead co-applicant that is designated as the payee to receive and disburse PHDEP funds, assigned and the responsibility for administering the grant, and is responsible for supervision and program coordination of the other co-applicant(s) in accordance with the requirements of this program.

IV. Corrections to Deficient Applications

(a) HUD will notify an applicant, in writing of any curable technical deficiencies in the application. The applicant must submit corrections in accordance with the information specified in HUD's letter within 14 calendar days from the date of HUD's letter notifying the applicant of any such deficiency.

(b) Curable technical deficiencies relate to items that:

(i) Are not necessary for HUD review under selection criteria/ranking factors; and

(ii) Cannot be submitted after the submission due date (application deadline) to improve the quality of the applicant's program proposal.

(c) An example of a curable technical deficiency would be the failure of an applicant to submit a required assurance, certification, applicant data form, summaries of written resident comments, prior grant reports/reviews, incomplete forms such as the SF-424 or

lack of required signatures, appendixes and documentation referenced in the application or a computational error based on the use of an incorrect number(s). These items are discussed in the application kit and samples, as appropriate, are provided.

(d) An example of a non-curable defect or deficiency would be a missing SF-424A, plan, budget narrative, activity timetable, or a failure to submit any of the required elements for a joint application under section III.(j) of this NOFA.

V. Other Matters

(a) Environmental Impact

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying from 7:30 to 5:30 weekdays in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20401.

(b) Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the provisions of this NOFA do not have "federalism implications" within the meaning of the Order. The NOFA implements a program that encourages PHSSs and IHAs to develop a plan for addressing the problem of drug-related crime, and makes available grants to PHSSs and IHAs to help them carry out their plans. As such, the program helps PHAs and IHAs to combat serious drug-related crime problems in their projects, thereby strengthening their role as instrumentalities of the States.

(c) Family Impact

The General Counsel, as the Designated Official for Executive Order 12606, the Family, has determined that the provisions of this rule have the potential for a positive, although indirect, impact on family formation, maintenance and general well-being within the meaning of the Order. The proposed rule would implement a program that would encourage PHSSs and IHAs to develop a plan for addressing the problem of drug-related crime, and to make available grants to help PHSSs and IHAs to carry out this plan. As such, the program is intended to improve the quality of life of public and Indian housing development residents, including families, by

reducing the incidence of drug-related crime.

(d) Section 102 HUD Reform Act—Documentation and Public Access Requirements; Applicant/Recipient Disclosures

Documentation and Public Access

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly *Federal Register* notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the *Federal Register* on January 16, 1992 (57 FR 1942), for further information on these requirements.)

Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the *Federal Register* on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

(e) Section 103 HUD Reform Act

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are limited by Part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708-3815. (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

(f) Section 112 HUD Reform Act

Section 13 of the Department of Housing and Urban Development Act contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the *Federal Register* on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in appendix A of the rule.

(g) Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (The "Byrd Amendment") and the implementing regulations at 24 CFR Part 87. These authorities prohibit recipients of federal contracts, grants, or loans

from using appropriated funds for lobbying the Executive or Legislative branches of the federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding \$100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance. Indian Housing Authorities (IHAs) established by an Indian tribe as a result of the exercise of their sovereign power are excluded from coverage, but IHAs established under State law are not excluded from coverage.

Authority: Sec. 5127, Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et. seq.); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: April 23, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

Appendix—Listing of: HUD Regional Offices, Category A and B Field Offices, Other Field Offices With Delegated Public Housing Responsibilities, and Offices of Indian Programs

Region I

Jurisdiction: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Boston, Massachusetts Regional Office

Regional Administrator, Regional Housing Commissioner, HUD—Boston Regional Office, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway St., Room 375, Boston, MA 02222-1092, (617) 565-5234 (FTS) 835-5234.

Hartford, Connecticut Office—A

Manager, HUD—Hartford Office, 330 Main St., Hartford, Connecticut 06106-1860, (203) 240-4523, (FTS) 244-4523.

Manchester, New Hampshire Office—B

Manager, HUD—Manchester Office, Norris Cotton Federal Building, 275 Chestnut St., Manchester, New Hampshire 03101-2487, (603) 666-7681, (FTS) 834-7681.

Providence, Rhode Island Office—B

Manager, HUD—Providence Office, 330 John O. Pastore Federal Building & U.S. Post Office—Kennedy Plaza, Providence, Rhode Island 02903-1785, (401) 528-5351, (FTS) 838-5351.

Region II

Jurisdiction: New York, New Jersey.

New York Regional Office

Regional Administrator, Regional Housing Commissioner, HUD—New York Regional Office, 26 Federal Plaza, New York, New

York 10278-0068, (212) 264-8068, (FTS) 264-8068.

Buffalo, New York Office—A

Manager, HUD—Buffalo Office, Lafayette Court, 5th Fl., 465 Main Street, Buffalo, New York 14203-1780, (716) 846-5755, (FTS) 437-5733.

Newark, New Jersey Office—A

Manager, HUD—Newark Office, Military Park Building, 60 Park Place, Newark, New Jersey 07102-5504, (201) 877-1662, (FTS) 349-1814.

Region III

Jurisdiction: Pennsylvania, Washington DC, Maryland, Delaware, Virginia, West Virginia.

Philadelphia, Pennsylvania Regional Office

Regional Administrator, HUD—Philadelphia Regional Office, Liberty Square Building, 105 South 7th St., Philadelphia, Pennsylvania 19106-3392, (215) 597-2560, (FTS) 597-2567.

Washington, DC Office—A

Manager, HUD—Washington Office, Union Center Plaza, Phase II, 820 First St. NE., Suite 300, Washington, DC 20002-4502, (202) 275-9200, (FTS) 275-9206.

Baltimore, Maryland Office—A

Manager, HUD—Baltimore Office, 10 North Calvert St., 3rd Fl., Baltimore, Maryland 21202-1865, (301) 962-2121, (FTS) 922-3047.

Pittsburgh, Pennsylvania Office—A

Manager, HUD—Pittsburgh Office, 412 Old Post Office Courthouse Building, 7th Ave. & Grant St., Pittsburgh, Pennsylvania 15219-1906, (412) 644-6428, (FTS) 722-6388.

Richmond, Virginia Office—A

Manager, HUD—Richmond Office, 400 North 8th St., Richmond, Virginia 23240, (804) 771-2721, (FTS) 925-2721.

Charleston, West Virginia Office—B

Manager, HUD—Charleston Office, 405 Capitol St., Suite 708, Charleston, West Virginia 25301-1795, (304) 347-7000, (FTS) 930-7036.

Region IV

Jurisdiction: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Caribbean, Virgin Islands.

Atlanta, Georgia Regional Office

Regional Administrator, Regional Housing Commissioner, HUD—Atlanta Regional Office, Richard B. Russell Federal Building, 75 Spring St., SW., Atlanta, Georgia 30303-3388, (404) 331-5136, (FTS) 841-5136.

Birmingham, Alabama Office—A

Manager, HUD—Birmingham Office, 600 Beacon Parkway West, Suite 300, Birmingham, Alabama 35209-3144, (205) 731-1617, (FTS) 229-1617.

Louisville, Kentucky Office—A

Manager, HUD—Louisville Office, 601 W. Broadway, P.O. Box 1044, Louisville,

Kentucky 40201-1044, (502) 582-5251, (FTS) 352-5251.

Jackson, Mississippi Office—A

Manager, HUD—Jackson Office, Dr. A.H. McCoy Federal Building, 100 West Capitol St., Room 910, Jackson, Mississippi 39269-1096, (601) 965-4738, (FTS) 490-4738.

Greensboro, North Carolina Office—A

Manager, HUD—Greensboro Office, 415 North Edgewood St., Greensboro, North Carolina 27401-2107, (919) 333-5361, (FTS) 699-5363.

Caribbean Office—A

Manager, HUD—Caribbean Office, San Juan Center, 159 Carlos E. Chardon Ave., San Juan, Puerto Rico 00918-1804, (809) 766-5201, (FTS) 498-5201.

Columbia, South Carolina Office—A

Manager, HUD—Columbia Office, Strom Thurmond Federal Building, 1835-45 Assembly St., Columbia, South Carolina 29201-2480, (803) 765-5592, (FTS) 677-5592.

Knoxville, Tennessee Office—A

Manager, HUD—Knoxville Office, John J. Duncan Federal Building, 710 Locust St., SW., Knoxville, Tennessee 37902-2526, (615) 549-9384, (FTS) 854-9384.

Nashville, Tennessee Office—B

Manager, HUD—Nashville Office, 251 Cumberland Bend Drive, Suite 200, Nashville, Tennessee 37228-1803, (615) 736-5213, (FTS) 852-5213.

Jacksonville, Florida Office—A

Manager, HUD—Jacksonville Office, 325 West Adams St., Jacksonville, Florida 32202-4303, (904) 791-2626, (FTS) 946-2626.

Region V

Jurisdiction: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Chicago, Illinois Regional Office

Regional Administrator, Regional Housing Commissioner, HUD—Chicago Regional Office, 526 West Jackson Blvd., Chicago, IL 60606-5601, (312) 353-5680, (FTS) 353-5680.

Chicago Office of Indian Programs

Director, HUD—Chicago Office of Indian Programs, 626 West Jackson Blvd., Chicago, IL 60606-1683, (312) 353-1683, (FTS) 353-1683.

Detroit, Michigan Office—A

Manager, HUD—Detroit Office, Patrick V. McNamara Federal Building, 477 Michigan Ave., Detroit, Michigan 48228-2592, (313) 226-7900, (FTS) 226-7900.

Indianapolis, Indiana Office—A

Manager, HUD—Indianapolis Office, 151 North Delaware St., Indianapolis, Indiana 46204-2526, (317) 226-8303, (FTS) 331-6303.

Grand Rapids, Michigan Office—B

Manager, HUD—Grand Rapids Office, 2922 Fuller Ave., NE., Grand Rapids, Michigan 49505-3499, (616) 456-2100, (FTS) 372-2182.

Minneapolis-St. Paul, Minnesota Office—A
 Manager, HUD—Minneapolis-St. Paul Office,
 220 2nd St. S., Bridge Place Building,
 Minneapolis, Minnesota 55401-2195, (612)
 370-3002, (FTS) 333-3002.

Cincinnati, Ohio Office—B
 Manager, HUD—Cincinnati Office, Federal
 Office Building, Room 9002, 550 Main St.,
 Cincinnati, Ohio 45202-3253, (513) 684-
 2884, (FTS) 684-2884.

Cleveland, Ohio Office—B
 Manager, HUD—Cleveland Office, One
 Playhouse Square, 1375 Euclid Ave., Rm.
 420, Cleveland, Ohio 44114-1670, (216) 522-
 4065, (FTS) 942-4065.

Columbus, Ohio Office—A
 Manager, HUD—Columbus Office, 200 N.
 High St., Columbus, Ohio 43215-2499, (614)
 469-5737, (FTS) 943-7345.

Milwaukee, Wisconsin Office—A
 Manager, HUD—Milwaukee Office, Henry S.
 Reuss Federal Plaza, 310 W. Wisconsin
 Ave., Suite 1380, Milwaukee, Wisconsin
 53203-2289, (414) 291-3214, (FTS) 362-1493.

Region VI
 Jurisdiction: Arkansas, Louisiana, New
 Mexico, Oklahoma, Texas

Fort Worth, Texas Regional Office
 Regional Administrator, Regional Housing
 Commissioner, HUD—Fort Worth Regional
 Office, 1600 Throckmorton, P.O. Box 2905,
 Fort Worth Texas 76113-2905, (817) 885-
 5401, (FTS) 728-5401

Houston, Texas Office—B
 Manager, HUD—Houston Office, Norfolk
 Tower, 2211 Norfolk, Suite 200, Houston,
 Texas 77098-4096, (713) 853-3274, (FTS)
 522-3271

San Antonio, Texas Office—A
 Manager, HUD—San Antonio Office,
 Washington Square Building, 800 Dolorosa
 St., San Antonio, Texas 78207-4563, (512)
 229-6800, (FTS) 730-6806

Little Rock, Arkansas—A
 Manager, HUD—Little Rock Office, Lafayette
 Building, 523 Louisiana, Suite 200, Little
 Rock, Arkansas 72201, (501) 324-5900,
 (FTS) 740-5401

New Orleans, Louisiana Office—A
 Manager, HUD—New Orleans Office, Fisk
 Federal Building, 1661 Canal St., P.O. Box
 70288, New Orleans, Louisiana 70112-2887,
 (504) 589-7200, (FTS) 682-7200

Oklahoma City, Oklahoma Office—A
 Manager, HUD—Oklahoma City Office,
 Murrah Federal Building, 200 N.W. 5th St.,

Oklahoma City, Oklahoma 73102-3202,
 (405) 231-4181, (FTS) 736-4891

Oklahoma City Indian Programs Division
 Director, HUD—Oklahoma City Office IPD,
 Murrah Federal Building, 200 N.W. 5th St.,
 Oklahoma City, OK 73102-3202, (405) 231-
 4102, (FTS) 736-4101

Albuquerque, NM Office—C
 Manager, HUD—Albuquerque Office, 825
 Truman Street N.E., Albuquerque, NM
 87110-6443, (505) 262-6483, (FTS) 474-0604

Region VII
 Jurisdiction: Iowa, Kansas, Missouri,
 Nebraska

Kansas City, Kansas Regional Office
 Regional Administrator, Regional Housing
 Commissioner, Kansas City Regional
 Office, Gateway Tower II, 400 State Ave.,
 Kansas City, Kansas 66101-2506, (913) 238-
 2162, (FTS) 757-2162

Omaha, Nebraska—A
 Manager, HUD—Omaha Office, Braiker/
 Brandeis Building, 210 St. 16th St., Omaha,
 Nebraska 68102-1622, (402) 221-3703, (FTS)
 864-3703

St. Louis, Missouri Office—A
 Manager, HUD—St. Louis Office, 1222 Spruce
 St., St. Louis, Missouri 63103-2836, (314)
 539-6583, (FTS) 282-6560

Des Moines, Iowa Office—B
 Manager, HUD—Des Moines Office, Federal
 Building, 210 Walnut St., Rm. 239, Des
 Moines, Iowa 50309-2155, (515) 284-4512,
 (FTS) 862-4512

Region VIII
 Jurisdiction: Colorado, Montana, North
 Dakota, South Dakota, Utah, Wyoming

Denver, Colorado Regional Office
 Regional Administrator, Regional Housing
 Commissioner, HUD—Denver Regional
 Office, Executive Office Building, 1405
 Curtis St., Denver, Colorado 80202-2349,
 (303) 844-4513, (FTS) 564-4513

Denver, Colorado Office of Indian Programs
 Director, HUD—Denver Office OIP,
 Executive Tower Building, 1405 Curtis St.,
 Denver, CO 80202-2349, (303) 844-4513,
 (FTS) 564-2983

Region IX
 Jurisdiction: Arizona, California, Hawaii,
 Nevada, Guam, American Samoa

San Francisco, California Regional Office
 Regional Administrator, Regional Housing
 Commissioner, HUD—San Francisco
 Regional Office, Philip Burton Federal
 Building & U.S. Courthouse, 450 Golden

Gate Ave., P.O. Box 36003, San Francisco,
 California 94102-3446, (415) 556-4752, (FTS)
 556-4752

Phoenix, Arizona Indian Program Office
 Director, HUD—Phoenix Office of Indian
 Programs, Two Arizona Center, Suite 1650,
 Phoenix, Arizona 85004, (602) 379-4158,
 (FTS) 261-4158

Honolulu, Hawaii Office—A
 Manager, HUD—Honolulu Office, 300 Ala
 Moana Blvd., Rm. 3318, Honolulu, Hawaii
 96850-4991, (808) 541-1323, (FTS) 551-1343

Los Angeles, California Office—A
 Manager, HUD—Los Angeles Office, 1615 W.
 Olympic Blvd., Los Angeles, California
 90015-3801, (213) 251-7122, (FTS) 983-7122

Sacramento, California Office—B
 Manager, HUD—Sacramento Office, 777 12th
 Ave., Suite 200, P.O. Box 1978, Sacramento,
 California 95814-1997, (916) 551-1351, (FTS)
 460-1351

Phoenix, Arizona Office—B
 Manager, HUD—Phoenix Office, Two
 Arizona Center, 400 N. 5th St., Phoenix,
 Arizona 85004-2361, (602) 261-4434, (FTS)
 261-3985

Region X
 Jurisdiction: Alaska, Idaho, Oregon,
 Washington

Seattle, Washington Regional Office
 Regional Administrator, Regional Housing
 Commissioner, HUD—Seattle Regional
 Office, Arcade Plaza Building, 1321 2nd
 Ave., Seattle, Washington 98101-2058, (206)
 553-5414, (FTS) 399-5414

**Seattle, Washington Office of Indian
 Programs**

Director, HUD—Office of Indian Programs,
 Arcade Plaza Building, 1321 2nd Ave.,
 Seattle, WA 98101-2058, (206) 553-5414,
 (FTS) 399-0330

Portland, Oregon Office—A
 Manager, HUD—Portland Office, Cascade
 Building, 520 S.W. 6th Ave., Portland,
 Oregon 97203-1598, (503) 326-2561, (FTS)
 423-2561

Anchorage, Alaska Office—A
 222 West 8th Avenue, #64, Anchorage,
 Alaska 99513-7537, (907) 271-4170, (FTS)
 907-271-3687

Director, HUD—Anchorage Indian Housing
 Division, 701 C Street, Box 64, Anchorage,
 Alaska 99513, (907) 271-4170, (FTS) 271-
 4170.

[FR Doc. 92-10089 Filed 4-29-92; 8:45 am]
 BILLING CODE 4210-33-M

50th Anniversary Federal Register

Thursday
April 30, 1992

Part XI

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Approved Tribal-State
Compact; Notice

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****Indian Gaming**

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100-497), the Secretary of the Interior shall publish, in the *Federal Register*, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary-Indian Affairs, Department of the Interior, through his delegated authority, is publishing the Compact between the Sovereign Indian Nation of the Sac and Fox Tribe of the Mississippi in Iowa and the Sovereign State of Iowa to Govern Class III Gaming on Indian Lands of the Sac and Fox Tribe of the Mississippi in Iowa and Amendment No. 1, which is considered approved, but only to the extent the compact, as amended, is

consistent with the provisions of the Indian Gaming Regulatory Act (IGRA).

SUPPLEMENTARY INFORMATION: Initially, it was concluded that section 17 of the compact, entitled "Jurisdiction," violated Federal law by extending the Sac and Fox Tribe's criminal jurisdiction to non-members who consent to such jurisdiction. While Indian tribes may exercise criminal jurisdiction over non-member Indians, the United States Supreme Court has held that "Indians do not have criminal jurisdiction over non-Indians absent affirmative delegation of such power by Congress." See *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191, 208 (1978). Accordingly, non-Indians can not consent to criminal jurisdiction which does not exist. Thus, the attempt in Section 17 to extend tribal criminal jurisdiction to non-Indians violated Federal law.

Amendment No. 1, executed on April 9, 1992, to the Compact between the Sac and Fox Tribe of Mississippi in Iowa and the State of Iowa removes all compact provisions pertaining to criminal jurisdiction over non-members. Because the Tribe no longer attempts to exercise criminal jurisdiction over non-

Indians, the compact does not violate Federal law.

Because of the expiration of the 45 days specified in 25 U.S.C. 2710(d)(8)(B) in which the Secretary could approve or disapprove this compact, the Compact between the Sovereign Indian Nation of the Sac and Fox Tribe of the Mississippi in Iowa and the Sovereign State of Iowa to Govern Class III Gaming on Indian Lands of the Sac and Fox Tribe of the Mississippi in Iowa, executed on March 3, 1992, is considered approved, as amended, as specified in 25 U.S.C. 2710(d)(8)(B) to the extent that it is consistent with the IGRA.

DATES: April 30, 1992.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS/MIB, 4603, 1849 "C" Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ronal D. Eden, Bureau of Indian Affairs, Washington, DC 20240, (202) 208-3463.

Dated: April 24, 1992.

Richard Whitsell,
Acting Assistant Secretary—Indian Affairs.
[FR Doc. 92-10122 Filed 4-29-92; 8:45 am]

BILLING CODE 4310-02-M

சுந்தரபாண்டியன்

**Department of the
Interior**

**Central and Western Gulf of Mexico
Outer Continental Shelf, Proposed 1994
Lease Sales; Call for Information and
Nominations, and Intent To Prepare an
Environmental Impact Statement; Notice**

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE
Gulf of Mexico OCS Region

Proposed 1994 Lease Sales

Call for Information and Nominations
and

Notice of Intent to Prepare an Environmental Impact Statement

CALL FOR INFORMATION AND NOMINATIONS
(Responses Due in 45 Days)

Purpose of Call

The purpose of the Call is to gather information for Outer Continental Shelf (OCS) Lease Sale 147 in the Central Gulf of Mexico (CGOM) Planning Area, tentatively scheduled for March 1994, and OCS Lease Sale 150 in the Western Gulf of Mexico (WGOM) Planning Area, tentatively scheduled for August 1994.

Information and nominations on oil and gas leasing, exploration, and development and production within the Central and Western Gulf of Mexico Planning Areas are sought from all interested parties. This initial planning and consultation step is part of the Area Evaluation and Decision Process and is important for ensuring that all interests and concerns are communicated to the Department of the Interior for future decisions in the leasing process pursuant to the OCS Lands Act, as amended (OCSLAA) (43 U.S.C. 1331 - 1356 (1988)), and regulations at 30 CFR Part 256. This Call does not indicate a preliminary decision to lease in the area described below. Final delineation of the area for possible leasing will be made at a later date and in compliance with applicable laws including all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as amended, and the OCSLAA. Established departmental procedures will be employed.

Description of Area

The general area of this Call covers the entire central and western portions of the Gulf of Mexico between approximately 88 degrees W. longitude on the east and approximately 97 degrees W. longitude on the west and extends from the Federal-State boundaries seaward to the provisional maritime boundary between

the United States and Mexico. The entire Call area is offshore the States of Texas, Louisiana, Mississippi, and Alabama. This area is divided into two planning areas.

The CGOM Planning Area is bounded on the east by approximately 88 degrees W. longitude. Its western boundary begins at the offshore boundary between Texas and Louisiana and proceeds southeasterly to approximately 28 degrees N. latitude, thence east to approximately 92 degrees W. longitude, thence south to the provisional maritime boundary with Mexico, which constitutes the southern boundary of the area. The northern part of the area is bounded by the Federal-State boundary offshore Louisiana, Mississippi, and Alabama. The area available for nominations and comments consists of about 47.7 million acres.

The WGOM Planning Area is bounded on the west and north by the Federal-State boundary and on the east by the CGOM Planning Area. The area extends south to the provisional maritime boundary with Mexico. The entire area is offshore Texas and, in deeper water, offshore Louisiana. The area available for nominations and comments consists of about 35.9 million acres.

A standard large-scale Call for Information Map depicting each planning area on a block-by-block basis is available without charge from:

Minerals Management Service
Public Information Unit
1201 Elmwood Park Boulevard
New Orleans, Louisiana 70123-2394
Telephone: (504) 736-2519

Areas Deferred from this Call (Western Gulf)

High Island Area, East Addition, South Extension, (Flower Gardens), Block A-375 and Block A-398 (WGOM).

Area Under Ongoing Discussions with the Navy (Western Gulf)

The Corpus Christi Naval Operations Area containing 340 blocks was deferred from leasing in Western Gulf Sale 135 (held August 21, 1991) and has been deferred from upcoming Western Gulf Sale 141 in accordance with a 1990 agreement with the Navy. A deferral is also under consideration for proposed Sale 143. A possible deferral consisting of an unspecified number of blocks and acres to take into account developing patterns in nearby oil and gas discoveries is under discussion with the Navy, but is not being deferred from this call.

Instructions on Call

Indications of interest and comments must be received no later than 45 days following publication of this document in the Federal Register in envelopes labeled "Nominations for Proposed

1994 Lease Sales in the Gulf of Mexico" or "Comments on the Call for Information and Nominations for Proposed 1994 Lease Sales in the Gulf of Mexico." The standard call for information map and indications of interest and/or comments must be submitted to the Regional Supervisor, Leasing and Environment, Gulf of Mexico OCS Region, at the address stated above.

The standard Call for Information Map delineates the Call area all of which has been identified by the MMS as having potential for the discovery of accumulations of oil and gas. Respondents are requested to indicate interest in and comment on any or all of the Federal acreage within the boundaries of the Call area that they wish to have considered for inclusion in proposed Sale 147 in the CGOM and proposed Sale 150 in the WGOM.

Although individual indications of interest are considered to be privileged and proprietary information, the names of persons or entities indicating interest or submitting comments will be of public record. Those indicating such interest are required to do so on the standard Call for Information Map by outlining the areas of interest along block lines.

Respondents should rank areas in which they have expressed interest according to priority of their interest (e.g., priority 1 (high), 2 (medium), or 3 (low)).

We encourage respondents to be specific in indicating blocks by priority, as blanket nominations on large areas are not useful in the analysis of industry interest. Areas where interest has been indicated but on which respondents have not indicated priorities will be considered priority 3 (low).

Respondents may also submit a detailed list of blocks nominated (by Official Protraction Diagram and Leasing Map designations) to ensure correct interpretation of their nominations. Specific questions may be directed to the Chief, Leasing Activities Section at (504) 736-2761. Official Protraction Diagrams and Leasing Maps can be purchased from the Public Information Unit referred to above.

Comments are sought from all interested parties about particular geological, environmental, biological, archaeological, social, and economic conditions or conflicts, or other information which might bear upon the potential leasing and development of particular areas. Comments are also sought on possible conflicts between future OCS oil and gas activities that may result from the proposed sales and State Coastal Management Programs (CMP's). If possible, these comments should identify specific CMP policies of concern, the nature of the conflict foreseen, and steps that the MMS could take to avoid or mitigate the potential conflict. Comments may either be in terms of broad areas or restricted to particular blocks of concern. Those submitting comments are

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requested to list block numbers or outline the subject area on the standard Call for Information Map.

Use of Information from Call

Information submitted in response to this Call will be used for several purposes. First, responses will be used to identify the areas of potential for oil and gas development. Second, comments on possible environmental effects and potential use conflicts will be used in the analysis of environmental conditions in and near the Call area. This information will be used to make a preliminary determination of the potential advantages and disadvantages of oil and gas exploration and development to the region and the Nation. A third purpose of this Call is to use the comments collected to initiate the scoping process for the Environmental Impact Statement (EIS) and analyze alternatives to the proposed action. Fourth, comments may be used in developing lease terms and conditions to ensure safe offshore operations. Fifth, comments may be used to point out potential conflicts between offshore oil and gas activities and a State CMP.

Existing Information

An extensive environmental studies program has been underway in this area since 1973. The emphasis, including continuing studies, has been on environmental characterization of biologically sensitive habitats, physical oceanography, ocean-circulation modeling, and ecological effects of oil and gas activities. A complete listing of available study reports, and information for ordering copies, can be obtained from the Public Information Unit referenced above. The reports may also be ordered, for a fee, directly from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or telephone (703) 487-4650.

In addition, a program status report for continuing studies in this area can be obtained from the Chief, Environmental Studies Section, Gulf of Mexico OCS Region (see address under "Description of Area"), or telephone (504) 736-2896.

Summary Reports and Indices and technical and geological reports are available for review at the MMS, Gulf of Mexico OCS Region. Copies of the Gulf of Mexico OCS Regional Summary Reports may be obtained from the OCS Information Program, Office of Offshore Information and Publications, Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070.

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Tentative Schedule

The following is a list of tentative milestone dates preceding CGOM Sale 147 and WGOM Sale 150:

	<u>CGOM Sale 147</u>	<u>WGOM Sale 150</u>
Comments due on the Call	June 1992	June 1992
Notice Of Intent		
Comments Due (Scoping)	June 1992	June 1992
Area Identification	July 1992	July 1992
Draft EIS published	March 1993	March 1993
Proposed Notice Issued	March 1993	March 1993
Public Hearings held on Draft EIS	May 1993	May 1993
Governors' Comments Due on Proposed Notice	June 1993	June 1993
Final EIS published	October 1993	October 1993
CGM Consistency Determination	October 1993	March 1994
Final Notice of Sale published	February 1994	July 1994
Sale Date	March 1994	August 1994

NOTICE OF INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT
(Comments Due in 45 Days)

Purpose of Notice of Intent

Pursuant to the regulations (40 CFR 1501.7) implementing the procedural provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.), the MMS is announcing its intent to prepare an EIS on the oil and gas leasing proposals known as Sale 147 in the CGOM, and Sale 150 in the WGOM, off the States of Texas, Louisiana, Mississippi, and Alabama. Throughout the scoping process, Federal, State, and local governments and other interested parties have the opportunity to aid the MMS in determining the significant issues and alternatives to be analyzed in the EIS.

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[FR Doc. 92-10106 Filed 4-29-92; 8:45 am]

BILLING CODE 4310-MR-C

The EIS analysis will focus on the potential environmental effects of leasing, exploration, and development of the blocks included in the areas defined in the Area Identification procedure as the proposed areas of the Federal actions. Alternatives to the proposal which may be considered for each sale are to delay the sale, cancel the sale, or modify the sale.

Instructions on Notice of Intent to Prepare an EIS

Federal, State, and local governments and other interested parties are requested to send their written comments on the scope of the EIS, significant issues which should be addressed, and alternatives that should be considered to the Regional Supervisor, Leasing and Environment, Gulf of Mexico OCS Region, at the address stated under "Description of Area." Comments should be enclosed in an envelope labeled "Comments on the Notice of Intent to Prepare an EIS on the proposed 1994 Lease Sales in the Gulf of Mexico." Comments are due no later than 45 days from publication of this Notice. Scoping meetings will be held in appropriate locations to obtain additional comments and information regarding the scope of the EIS.

Scott Sewell

Director, Minerals Management
Scott Sewell

Service

Approved:

Richard Roldan

ACTING
Assistant Secretary, Land and Minerals Management
Richard Roldan

APR 29 1992

Date

6

federal register

Thursday
April 30, 1992

Part XIII

The President

Proclamation 6424—Loyalty Day, 1992

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The President

Part XIII

Introduction 1895-1917

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Presidential Documents

Title 3—

The President

Proclamation 6424 of April 28, 1992

Loyalty Day, 1992

By the President of the United States of America

A Proclamation

The United States has endured and prospered because it is founded on the ideals of freedom, equal opportunity, and justice—ideals worthy of the abiding faith and fidelity of our people. Unlike the May Day parades and marches that many totalitarian regimes once orchestrated among their citizens—hollow shows of unity and devotion that have died along with imperial communism—our observance of Loyalty Day has remained a cherished American tradition. On this occasion, we reaffirm our belief in the God-given dignity and worth of the individual and in each human being's equal and unalienable rights to life, liberty, and the pursuit of happiness.

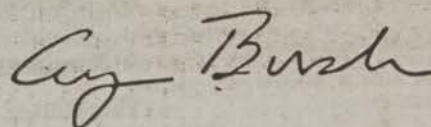
This year's observance of Loyalty Day has added significance as we celebrate the 100th anniversary of the Pledge of Allegiance. Its original author, Francis Bellamy of *The Youth's Companion* magazine, said that he strived to compose a salute to our flag that would "embody the fundamental idea of patriotic citizenship, comprehending in broadest lines the spirit of our history and the deepest aim of our National life." Clearly, he succeeded. When we recite the Pledge and promise our allegiance to this "one Nation under God, indivisible, with liberty and justice for all," we reaffirm the great spiritual and moral heritage of the United States, the importance of our Union, and the noble vision to which it is dedicated.

The Pledge of Allegiance expresses in words the loyalty and love of country that millions of Americans demonstrate, each day, through acts of patriotism and service. By honoring their vow to uphold our Constitution, elected officials, law enforcement officers, judges, and other public employees demonstrate their appreciation for the blessings of liberty and their determination to help preserve them. Parents, teachers, veterans, and civic association members show loyalty to our country by educating our children about its past, by encouraging them to take pride in all that America means to the world, and by setting examples of personal responsibility, strong moral character, and good citizenship. The millions of Americans who volunteer their time and talents to help solve various social problems likewise testify to their love of this great land. Today we remember especially the courageous members of our all-volunteer armed forces, as well as the many heroes who have gone before them in battle, proving with their very lives the depth of their commitment to liberty and self-government. These and all Americans demonstrate that our country is, indeed, as President Hayes once described it, "a union depending not upon the constraint of force, but upon the loving devotion of a free people."

To foster loyalty to the principles on which the United States is founded, the Congress, by joint resolution approved July 18, 1958 (72 Stat. 369; 36 U.S.C. 162), has designated May 1 of each year as "Loyalty Day."

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim May 1, 1992, as Loyalty Day. I call on all Americans to observe that day with appropriate ceremonies and activities, including public recitation of the Pledge of Allegiance to the Flag of the United States. I also call on all Government officials to display the flag on all Government buildings and grounds on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of April, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.



[FR Doc. 92-10331

Filed 4-29-92; 11:46 am]

Billing code 3195-01-M

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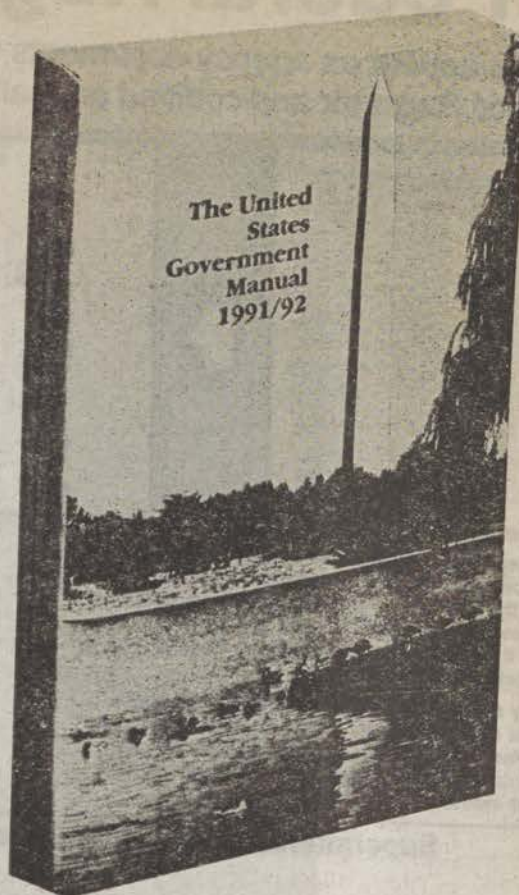
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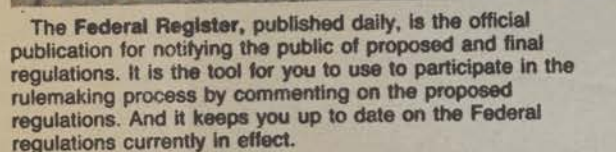
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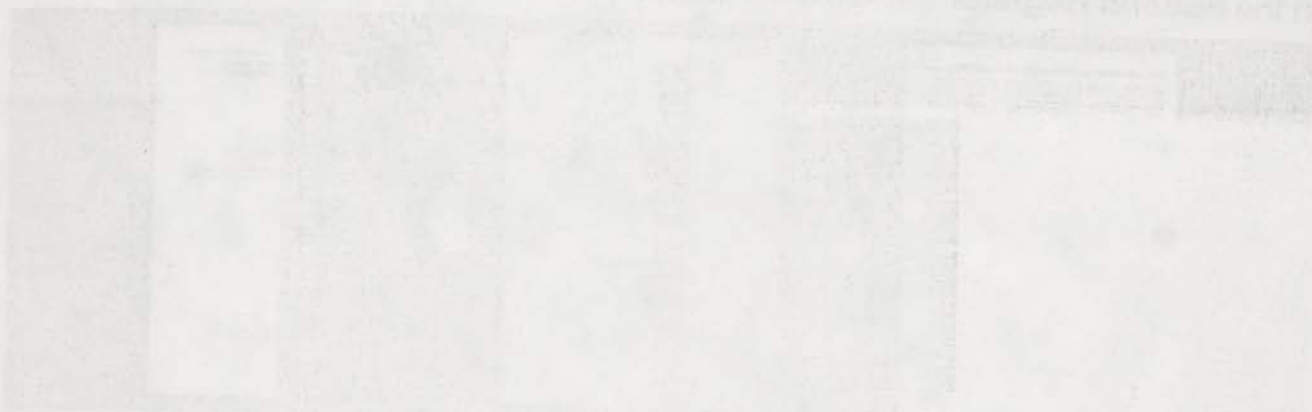
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